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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VIII—SUGAR DIVISION

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FAIR AND REASONABLE WAGE RATES FOR PERSONS EMPLOYED IN THE PRODUCTION AND CULTIVATION OF SUGARCANE IN THE MAINLAND CANE SUGAR AREA DURING THE CALENDAR YEAR 1940

Whereas, Section 301 (b) of the Sugar Act of 1937 provides, as one of the conditions for payment to producers of sugar beets and sugarcane, as follows:

(b) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subsection may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

And whereas, The Secretary of Agriculture has held a number of public hearings in the mainland cane sugar area for the purpose of receiving evidence likely to be of assistance to him in determining fair and reasonable wage rates for persons employed in the production and cultivation of sugarcane during the period from January 1, 1940, to December 31, 1940.

Now, therefore, I, H. A. Wallace, Secretary of Agriculture, after investigation and due consideration of the evidence obtained at the aforesaid hearings

and all other information before me, do hereby determine that:

§ 802.24e *Fair and reasonable wage rates for persons employed in the production and cultivation of sugarcane in the mainland cane sugar area during calendar year 1940.* The requirements of Section 301 (b) of the Sugar Act of 1937 shall be deemed to have been met with respect to the production and cultivation of sugarcane in the mainland cane sugar area during the period from January 1, 1940 to December 31, 1940, if all persons employed on the farm during that period in the production and cultivation of sugarcane shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates not less than the following:

Louisiana

(1) Tractor drivers, not less than \$1.50 per day of nine hours. For a working day longer or shorter than nine hours, the rate shall be not less than 17 cents per hour.

(2) Teamsters, not less than \$1.20 per day of nine hours. For a working day longer or shorter than nine hours the rate shall be not less than 13 cents per hour.

(3) All other adults engaged in the production and cultivation of sugarcane (excluding harvesting), for adult male workers, not less than \$1.20 per day of nine hours; for adult female workers not less than \$1.00 per day of nine hours. For a working day longer or shorter than nine hours, the rate shall be not less than 13 cents per hour for adult male workers and 11 cents per hour for adult female workers.

(4) For children between the ages of 14 and 16 years the rate per day of 8 hours shall be not less than 90 cents per day. For a working day shorter than 8 hours the rate shall be not less than 12 cents per hour.

Florida

(1) Tractor drivers, not less than \$1.80 per day of nine hours. For a working day longer or shorter than nine

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hours, the rate shall be not less than 20 cents per hour.

(2) All other adults engaged in the production and cultivation of sugarcane (excluding harvesting), for adult male workers not less than \$1.60 per day of nine hours; for adult female workers not less than \$1.30 per day of nine hours. For a working day longer or shorter than nine hours, the rate shall be not less than 18 cents per hour for adult male workers and 14 cents per hour for adult female workers.

(3) For children between the ages of 14 and 16 years the rate per day of 8 hours shall be not less than \$1.20 per day. For a working day shorter than 8 hours the rate shall be not less than 13 cents per hour.

Provided, however, (1) That if work is performed on any piece rate basis the earnings per hour or per day shall not be less than the applicable rates per hour or per day specified above for adult male workers or adult female workers, or children between the ages of 14 and 16 years;

(2) That the producer shall furnish to the laborer, without charge, the customary perquisites, such as, a habitable house, a suitable garden plot with facilities for its cultivation, pasturage for livestock, medical attention, and similar incidentals;

(3) That the producer shall not, through any subterfuge or device whatsoever, reduce the wage rates to laborers below those determined above; and

(4) That nothing in this determination shall be construed to mean that a producer may qualify for a payment under the act who has not paid in full the amount agreed upon between the producer and laborer. (Sec. 301 (b), 50 Stat. 909; 7 U.S.C., Sup. IV, 1131)

Done at Washington, D. C., this 2d day of March 1940. Witness my hand and seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary.

[F. R. Doc. 40-885; Filed, March 4, 1940; 9:37 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3375]

IN THE MATTER OF THOMAS QUILT FACTORIES

§ 3.6 (r) (2.5) *Advertising falsely or misleadingly—Prices—Exaggerated as regular and customary: § 3.6 (gg) Advertising falsely or misleadingly—Value.* Representing, in connection with offer, etc., in commerce, of quilts or other bed coverings, as the customary or regular prices or values of such products, prices and values which are in excess of the prices at which such products are regularly and customarily sold by respondent in the normal and usual course of business, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Thomas Quilt Factories, Docket 3375, February 23, 1940]

§ 3.6 (r) (7) *Advertising falsely or misleadingly—Prices—Usual as reduced: § 3.6 (dd) Advertising falsely or misleadingly—Special offers: § 3.72 (g10) Offering deceptive inducements to purchase—Limited offers: § 3.72 (n) Offering deceptive inducements to purchase—Special offers.* Representing, in connection with offer, etc., in commerce, of quilts or other bed coverings, that the prices at which respondent offers for sale and sells his products constitute a discount to the purchaser, or that such prices are special or reduced, or introductory prices, or that such prices are applicable for a limited time only, when in fact such prices are the usual and customary prices at which respondent sells such products in the normal and usual course of business, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Thomas Quilt Factories, Docket 3375, February 23, 1940]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of February, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF CHESTER L. THOMAS, INDIVIDUALLY, AND TRADING AS THOMAS QUILT FACTORIES

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent, testimony and other evidence taken before examiners of the

¹ 3 F.R. 2227.

Commission theretofore duly designated by it, in support of the allegation of said complaint and in opposition thereto, briefs filed herein by Carrel F. Rhodes, counsel for the Commission, and by J. Frederick Schneider, counsel for the respondent, oral argument not having been requested, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Chester L. Thomas, trading as Thomas Quilt Factories, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of quilts or other bed covering in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing as the customary or regular prices or values of quilts or other bed covering prices and values which are in excess of the prices at which such products are regularly and customarily sold by respondent in the normal and usual course of business;

2. Representing that the prices at which respondent offers for sale and sells his products constitute a discount to the purchaser, or that such prices are special or reduced, or introductory prices, or that such prices are applicable for a limited time only, when in fact such prices are the usual and customary prices at which respondent sells such products in the normal and usual course of business.

It is further ordered, That the respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-889; Filed, March 4, 1940;
10:21 a. m.]

[Docket No. 3524]

IN THE MATTER OF CURL-O-WAVE
COMPANY

§ 3.6 (j10) *Advertising falsely or misleadingly—History of product:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in commerce, of respondents' "Curl-O-Wave", or other similar hair curling preparation, that respondents' said product is odorless or is beneficial to the hair, or that the use of their said preparation will make the straightest hair naturally curly, or will

transform obstinate hair into dainty curls, or is a new discovery, or is anything other than an ordinary hair curling fluid, or that the use of such preparation will improve the texture of the hair, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Curl-O-Wave Company, Docket 3524, February 23, 1940]

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of February, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF J. W. COOPER, AND
JAMES J. COOPER, INDIVIDUALS TRADING
AS "CURL-O-WAVE COMPANY"

ORDER TO CEASE AND DESIST

This proceeding having been heard¹ by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, J. W. Cooper and James J. Cooper, and upon the testimony and other evidence taken before W. W. Sheppard, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, and upon brief filed herein by John R. Phillips, Jr., counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered That the respondents J. W. Cooper and James J. Cooper, individually and trading as Curl-O-Wave Company or trading under any other name or names, their agents, servants, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of a hair curling preparation now designated as "Curl-O-Wave", or of any hair curling preparation possessing similar properties whether sold under the same name or any other name, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. representing that respondents' preparation is odorless or that such preparation is beneficial to the hair;

2. representing that the use of respondents' preparation will make the straightest hair naturally curly, or that such preparation will transform obstinate hair into dainty curls, or that such preparation is a new discovery or is anything other than an ordinary hair

¹ 3 F.R. 2433.

curling fluid, or that the use of such preparation will improve the texture of the hair.

It is further ordered, That the respondents shall, within sixty (60) days after the service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-890; Filed, March 4, 1940;
10:22 a. m.]

[Docket No. 3790]

IN THE MATTER OF BUFORD & OWENS
COLLEGE, ET AL.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce of respondents' "Buford & Owens Hair Oil", "Buford & Owens Pressing Oil", "Buford & Owens Special Oil" and "Buford & Owens Shampoo", or other similar cosmetic preparations, which advertisements represent, directly or through implication, that said cosmetic preparations, or any of them, are a cure or remedy for dandruff, falling hair or diseases of the scalp, or will promote the growth of hair, or will prevent hair from falling out, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Buford & Owens College, et al., Docket 3790, February 23, 1940]

§ 3.6 (a) (14) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Individual or private business as educational institution:* § 3.96 (b) (3) *Using misleading name—Vendor—Individual or private business being educational institution.* Using the word "College", in connection with offer, etc., in commerce, of cosmetics, as part of the corporate name of the corporate respondent, or in any way representing that the respondents conduct an institution of higher learning, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Buford & Owens College, et al., Docket 3790, February 23, 1940]

United States of America—Before
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of February, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

IN THE MATTER OF BUFORD & OWENS COLLEGE, A CORPORATION, GUSSIE BUFORD, MARY OWENS BOONE WELLINGHAM AND GEORGE BUFORD, INDIVIDUALLY, AND AS OFFICERS OF BUFORD & OWENS COLLEGE

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts; and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered That respondents, Buford & Owens College, a corporation, and its officers, and Gussie Buford, Mary Owens Boone Wellingham, and George Buford, individually, and as officers of Buford & Owens College, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of respondents' cosmetic preparations now designated by the names of "Buford & Owens Hair Oil", "Buford & Owens Pressing Oil", "Buford & Owens Special Oil", and "Buford & Owens Shampoo", or any other cosmetic preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same names or under any other name or names, or disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said cosmetic preparations which said advertisements represent, directly or through implication:

That said cosmetic preparations, or any of them, are a cure or remedy for dandruff, falling hair or diseases of the scalp, or that said preparations, or any of them, will promote the growth of hair, or will prevent hair from falling out.

It is further ordered, That the respondents, Buford & Owens College, a corporation, and its officers, and Gussie Buford, Mary Owens Boone Wellingham, and George Buford, Individually, and as

officers of Buford & Owens College, and their respective officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of cosmetic preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "College" as part of the corporate name of the corporate respondent, or in any way representing that the respondents conduct an institution of higher learning.

It is further ordered, That the respondents shall, within sixty days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-391; Filed, March 4, 1940;
10:24 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 21st day of February, A. D. 1940.

Commissioners: Ewin L. Davis, Chairman; Garland S. Ferguson, Charles H. March, William A. Ayres, Robert E. Freer.

[File No. 21-345]

PART 144—TRADE PRACTICE RULES FOR THE SARDINE INDUSTRY

Due proceedings¹ having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II, as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of March 5, 1940.

Statement by the Commission

Trade practice rules for the Sardine Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure.

The rules relate to the sale and distribution of sardines, processed or canned, and of sardine oil, meal, and other sardine products, by processors, canners or packers, and by jobbers, distributors, dealers, importers, or other marketers. As promulgated, the provisions are directed to the elimination and

¹ 4 F. R. 4192.

prevention of misrepresentation, deceptive concealment, and various other unfair trade practices, and are issued in the interest of protecting industry, trade, and the public from the harmful effects of such unfair methods or practices.

Based on the most recent statistics available, the industry's annual pack of sardines in the United States is around 3,000,000 cases, and the annual domestic production of sardine oil and meal runs around 18,000,000 gallons of oil and close to 100,000 tons of meal. The combined sales value per annum to the producers of these products is reported to be approximately \$18,000,000.

The proceeding for the establishment of trade practice rules was instituted upon application of the industry. In the course thereof a general trade practice conference was held in San Francisco under the auspices of the Commission. Subsequently, a draft of proposed rules for the industry was made available upon public notice issued by the Commission to all interested or affected parties, whereby they were afforded opportunity to present their views to the Commission, including such pertinent information, suggestions, or objections as they desired to submit, and to be heard in the premises. Accordingly, public hearing pursuant to such notice was held in Washington, D. C. Thereafter, and upon consideration of the entire matter, final action was taken by the Commission whereby it approved and received, respectively, the rules appearing herein under Group I and Group II.

THE RULES

These rules do not in any respect supplant, or relieve anyone of the necessity of complying with, the legal requirements of the pure food laws, or other provision of law. They are established under statutes administered by the Federal Trade Commission for the purpose of more effectively stamping out unfair practices in the interest of the public, and to assist in general law enforcement to this end. They are not to be used, directly or indirectly, as part of or in connection with any combination or agreement to fix prices, or for the suppression of competition, or otherwise to unreasonably restrain trade.

Group I

Unfair trade practices which are embraced in these Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization sub-

ject to its jurisdiction, of such unlawful practices in or directly affecting interstate commerce.

§ 144.1 (Rule 1) *Definitions.* For the purpose of these rules and in their application the following definitions shall apply:

(a) *Improper packing.* Canned sardines shall be deemed to be improperly packed (1) if they contain any deleterious, decomposed or otherwise unfit food; or (2) if they are not prepared and packed under strict sanitary conditions conformable to the rules and regulations of appropriate Federal and State authorities; or (3) if the cans are not well filled with whole fish of good quality, properly cleaned and with heads removed; or (4) if the canned product contains any adulterant or the canning or packing thereof is defective in any other respect; or (5) if the can used is so made, formed, or filled as to be misleading.

Where sauce or oil is used in packing sardines, the quantity should be sufficient to fill the interstices in the can fully packed with the fish. Any tomato or mustard sauce or other sauce or oil used in packing sardines shall be made from sound and wholesome ingredients and shall contain no starches or other thickening, nor any adulterating agents, nor any other material or ingredient which may be deleterious, decomposed, putrid or harmful.

(b) *Natural style.* Canned sardines described or designated as "Natural Style" shall be deemed to be sardines which may or may not be salted or brined but which are packed without the addition of any sauce, oil, condiment, or flavoring agent.

(c) *Seconds.* The term "Seconds" shall be construed as including any canned sardines of which the can is overfilled abnormally, even though such sardines are otherwise properly packed. The term shall also be construed as including canned sardines in which the cans are dented, spotted, rusty, or otherwise defective; *Provided, however,* That if the sardines are spoiled or in any way adulterated or unfit for human or animal consumption they shall not be sold or distributed at all for such consumption, irrespective of whether or not they are designated by the canner, distributor, dealer, or other seller as being "Seconds."

§ 144.2 (Rule 2) *Sardines unfit for use.* It is an unfair trade practice to offer for sale, sell, or promote the sale of canned sardines for human consumption or as food for animals when, for any reason, such product is or has become unfit for such human or animal consumption.

§ 144.3 (Rule 3) *Misuse of words "Natural style", etc.* It is an unfair trade practice in the sale or distribution of canned sardines to use the term "Natural Style" as descriptive of any

such sardines, or to otherwise represent them as being "Natural Style" sardines, when such is not true in fact, or when such use of the term or such representation is in any other respect false, misleading, or deceptive.

§ 144.4 (Rule 4) *Misrepresenting "Seconds", etc.* In the sale or distribution of canned sardines which are "Seconds", it is an unfair trade practice to cause the same to be represented or sold (a) as or for sardines of a higher grade or quality; or (b) as not being such "Seconds"; or (c) under conditions of deceptive concealment of the fact that the products are "Seconds"; or (d) to offer for sale, sell, or distribute such "Seconds" without full and nondeceptive disclosure in the fact that such products are "Seconds" made clearly and unequivocally in all display or descriptive matter used in the sale or distribution of the products.

NOTE: To avoid deceptive concealment or the capacity and tendency or effect of misleading the purchasing public, all sardine products which are "Seconds" should be clearly and indelibly marked as "Seconds", and the fact they are "Seconds" should be clearly disclosed in all representations used in connection with their sale or distribution; moreover, such products should not be marketed at all for consumption of man or animals when the same are unfit for such human or animal consumption, respectively, or when the marketing thereof is contrary to the provisions of any applicable laws or governmental regulations.

§ 144.5 (Rule 5) *Misrepresentation of industry products.* The practice of selling, advertising, describing, or otherwise representing canned sardines, sardine oil or meal, or related products, in a manner which is calculated to mislead or deceive or has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public with respect to the character, nature, content, brand, grade, quality, quantity, origin, substance, material, size, preparation, packing, distribution, or manufacture of such products, or ingredients thereof, or in any other material respect, is an unfair trade practice.

§ 144.6 (Rule 6) *Deceptive depictions.* It is an unfair trade practice to use in relation to industry products any photograph, cut, engraving, insignia, design, illustration, or pictorial or other depiction or device, (in catalogs, sales literature, advertisements, or other representations), which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public respecting the character, nature, content, brand, grade, quality, quantity, origin, substance, material, size, preparation, packing, distribution, or manufacture of any products of the industry, or ingredients thereof; or which is false, misleading, or deceptive in any other respect.

§ 144.7 (Rule 7) *Imitation of trade-marks, trade names, etc.* The imitation or simulation of the trade-marks, trade

names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

§ 144.8 (Rule 8) *Use of slack-filled or short-weight containers.* It is an unfair trade practice to sell, advertise, describe, or otherwise represent, canned sardines or canned sardine products packed in slack-filled or short-weight containers, or packed in odd-sized containers simulating in size or shape standard sized or shaped containers which are known to the public as standard containers of definite capacity, with the tendency or effect of misleading or deceiving the purchasing or consuming public as to the contents of such containers or the amount of sardines or sardine products contained therein; or which are packed in containers so made, formed, or filled as to be otherwise misleading.

§ 144.9 (Rule 9) *Defamation of competitors or disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

§ 144.10 (Rule 10) *Substituting inferior products for those ordered.* The practice of using or substituting any product of the industry inferior in grade or quality to that specified by the purchaser, without the consent of said purchaser to such use or substitution, or with the capacity and tendency or effect of otherwise misleading or deceiving the purchasing or consuming public is an unfair trade practice.

§ 144.11 (Rule 11) *Misuse of word "Free".* The use of the word "Free," or the equivalent thereof, where not properly or fairly qualified when the article is in fact not free, with the capacity or tendency to mislead or deceive the purchasing or consuming public, is an unfair trade practice.

§ 144.12 (Rule 12) *Fictitious prices.* Offering sardines or sardine products for sale at prices purported to be reduced from what are in fact fictitious prices, or offering such products for sale at a purported reduction in price when such purported reduction is in fact fictitious, with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice.

§ 144.13 (Rule 13) *False invoicing.* Withholding from or inserting in an invoice, billing, or statement any material information by reason of which omission or insertion a false record is made, wholly or in part, of the transaction which such invoice or billing or statement purports to represent, with the effect of thereby mis-

leading or deceiving the purchasing or consuming public, is an unfair trade practice.

§ 144.14 (Rule 14) *Inducing breach of contract.* Inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

§ 144.15 (Rule 15) *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors.

§ 144.16 (Rule 16) *Enticing away employees of competitors.* Willfully enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their businesses is an unfair trade practice.

§ 144.17 (Rule 17) *Unfair threats of infringement suits.* The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but for the purpose or with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their businesses, is an unfair trade practice.

§ 144.18 (Rule 18) *Consignment distribution.* It is an unfair trade practice for any member of the industry to use the practice of shipping goods on consignment or pretended consignment for the purpose and with the effect of artificially clogging trade outlets and unduly restricting competitors' use of said trade outlets in getting their goods to consumers through regular channels of distribution, or with such purpose to entirely close said trade outlets to such competitors so as to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade: *Provided, however,* That nothing herein shall be construed or used as restricting or preventing consignment shipping or

marketing of commodities in good faith and without artificial interference with competitors' use of the usual channels of distribution in such manner as thereby to suppress competition or restrain trade.

§ 144.19 (Rule 19) *Selling below cost.* The practice of selling industry products below the seller's cost, when pursued with wrongful intent of thereby injuring a competitor and where the effect of such practice is to unreasonably restrain trade, tend to create a monopoly, or substantially lessen competition, is an unfair trade practice.

This rule is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued as a monopolistic practice with the wrongful intent referred to and coupled with the effect of unreasonably restraining trade, tending to create a monopoly, or substantially lessening competition. Sales below cost by a competitor not in a sufficiently strong competitive position to produce, and not actually producing, the monopolistic or restraining effect mentioned, do not fall within the inhibitions of this rule.

The costs referred to in the rule are actual costs of the respective seller and not some other figure or average costs in the industry determined by an industry cost survey or otherwise.

§ 144.20 (Rule 20) (a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,^a in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, or credit, or the granting of free goods, or other form of price differential, where such rebate, refund, discount, or credit, or the granting of free goods, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,^a and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,^a or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with custom-

^a As here used, the word "commerce" means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided,* That this shall not apply to the Philippine Islands.

ers of either of them: *Provided, however—*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce^a from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting either (a) the market for the goods concerned, or (b) the marketability of the goods, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce^a, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce^a to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers com-

peting in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce² to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce², in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this Rule 20.

(f) *Purchases by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.* The foregoing provisions of this Rule 20 relate to practices within the purview of the Robinson-Patman Antidiscrimination Act, which Act and the application thereunder of this Rule 20 are subject to the limitations expressed in the amendment to such Robinson-Patman Antidiscrimination Act, which amendment was approved May 26, 1938, and reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the Act approved June 19, 1936 (Public, Numbered 692, Seventy-Fourth Congress, second session), known as the Robinson-Patman Antidiscrimination Act, shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. (52 Stat. 446; Supp. 4 U.S.C. Title 15, Sec. 13c).

§ 144.21 (Rule 21) *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in these rules.

Group II

Compliance with the trade practice provisions embraced in the Group II rules

is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not, *per se*, constitute violation of law. Where, however, the practice of not complying with any such Group II rules is followed in such manner as to result in unfair methods of competition, or unfair or deceptive acts or practices, corrective proceedings may be instituted by the Commission as in the case of a violation of Group I rules.

Rule A. *Cost records.* It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs.

Rule B. *Repudiation or cancellation of contracts.* Lawful contracts are business obligations which should be performed in letter and in spirit. The repudiation or cancellation of contracts by sellers on a rising market or by buyers on a declining market is condemned by the industry.

A Committee on Trade Practices is hereby created by the industry to cooperate with the Federal Trade Commission and to perform such acts as may be legal and proper to put these rules into effect.

Promulgated and issued by the Federal Trade Commission as of March 5, 1940.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-892; Filed, March 4, 1940;
10:25 a. m.]

TITLE 24—HOUSING CREDIT

CHAPTER IV—HOME OWNERS' LOAN CORPORATION

PART 403—PROPERTY MANAGEMENT

AUTHORIZATION FOR PAYMENT OF EXPENSES; REGIONAL MANAGER'S AUTHORITY; CASES REQUIRING PRIOR APPROVAL OF THE HOME OFFICE PROPERTY COMMITTEE

Amending Part 403 of Chapter IV, Title 24 of the Code of Federal Regulations.

Section 403.14 is amended by changing the first paragraph thereof to read as follows:

"§ 403.14 *Regional manager's authority.* The Regional Manager may incur or approve charges or expenses of any nature whatsoever made or incurred in the performance of any of the functions or duties required or authorized to be done under Part 403, and when so approved proper vouchers shall be submitted to the Auditor or an authorized deputy for certification: *Provided*, That if the amount to be expended exceeds \$1,500 the approval of the Property Committee in the Home Office shall first be obtained."

(Effective date April 1, 1940)

Section 403.14 is further amended by the addition of a new paragraph immediately following the third paragraph thereof, to read as follows:

"In addition to the limitations imposed by this Section on the authority of Regional, State and District Managers to incur or approve charges or expenses, the prior approval of the Home Office Property Committee shall be first obtained in any case involving reconditioning, repairs or purchases of equipment and supplies.

(a) In excess of 50% of the latest valuation of the property in its then condition, prior to reconditioning, placed on the property by the Property Management Division.

(b) In excess of \$100 if the expenditure is to be capitalized and is not due to an insurance loss, and if it appears from the latest quarterly report of the Accounting Section received by the Regional, State or District Manager that the cumulative amount of disbursements capitalized for repairs, reconditioning and the purchase of equipment and supplies on the property subsequent to date of acquisition, when added to the amount to be authorized, exceeds \$1500."

(Effective date April 1, 1940)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k))

Adopted by the Federal Home Loan Bank Board on January 22, 1940.

[SEAL] J. FRANCIS MOORE,
Acting Secretary.

[F. R. Doc. 40-876; Filed, March 2, 1940;
10:09 a. m.]

TITLE 26—INTERNAL REVENUE

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Appendix

Rules for computing capacity of stills.

REGULATIONS GOVERNING THE PRODUCTION OF BRANDY AND ITS REMOVAL FROM THE DISTILLERY

ARTICLE I—SCOPE OF REGULATIONS

§ 184.1 *Production and removal of brandy.* These regulations are prescribed pursuant to the provisions of law governing the production of brandy and its removal from the distillery, under the exemptions from law provided herein pursuant to section 2825, I.R.C.*

ARTICLE II—REGULATIONS SUPERSEDED

§ 184.2 *Effective date.* These regulations shall, on and after the sixtieth day following the date of approval, supersede Part Three of Regulations 7, approved March 6, 1930, and all amendments and modifications thereof, to the extent that such regulations, as amended, modified, or supplemented, pertain to the production of brandy and the removal thereof from the distillery. But these regulations shall not affect or limit any act done or any liability incurred under any regulations superseded here-

by, or any suit, action, or proceeding had or commenced in any civil, administrative, or criminal cause or proceeding prior to the effective date of these regulations, nor shall these regulations release, acquit, affect, or limit any offense committed in violation of previously existing regulations, or any penalty, liability, or forfeiture incurred prior to such date.*

ARTICLE III—DEFINITIONS

§ 184.3 *Definitions.* As used in these regulations, the following words and phrases shall have the meanings as herein defined:

(a) "Brandy" or "brandies" shall mean distilled spirits produced in accordance with these regulations from the materials specified in section 2825, I.R.C., and from the products or the residues of such materials, and shall include wine spirits, fortifying spirits, fruit spirits, and spirits—fruit, except where otherwise indicated, but shall not include distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil.

(b) "Casualty" shall mean an accident; an event not to be foreseen or guarded against.

(c) "Collector" shall mean collector of internal revenue.

(d) "Commissioner" shall mean the Commissioner of Internal Revenue.

(e) "Distiller" shall mean the proprietor of a distillery.

(f) "Distillery" shall mean that part of the distillery premises described in the distiller's notice, Form 27½, where the distilled spirits are produced.

(g) "Distillery premises" shall mean the lot or tract of land described in the distiller's notice, Form 27½, and the distillery and other buildings and fixtures situated on and constituting a part of such lot or tract of land.

(h) "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol Tax Unit of the Bureau of Internal Revenue.

(i) "Fruit distillery" shall mean a distillery established or operated under these regulations.

(j) "Fruit spirits" or "spirits—fruit" shall mean spirits produced under these regulations at or above 190 degrees of proof.

(k) "Heads and tails" shall mean distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil.

(l) "I. R. C." shall mean the Internal Revenue Code (Public, No. 1, Seventy-sixth Congress).

(m) "Person," "proprietor," or "distiller" shall include natural persons, associations, copartnerships, and corporations.

(n) "Proof of distillation" shall mean the composite proof of the spirits in the receiving tanks prior to reduction, or, if the spirits are reduced before reaching the receiving tanks, the proof prior to such reduction, unless the spirits are

subsequently redistilled at a higher proof than the proof prior to reduction.

(o) "Registered distillery" shall mean a distillery established or operated under the regulations governing the production of distilled spirits other than alcohol, and brandy produced pursuant to these regulations.

(p) "Secretary" shall mean the Secretary of the Treasury.

(q) "Tank car" shall mean a railroad tank car conforming to the requirements of these regulations.

(r) Words in the plural form shall include the singular, and *vice versa*, and words in the masculine gender shall include females, associations, copartnerships, and corporations.*

ARTICLE IV—EXEMPTION OF FRUIT DISTILLERS FROM CERTAIN PROVISIONS OF LAW

§ 184.4 *Exemptions.* Section 2825, I.R.C., authorizes the Commissioner, with the approval of the Secretary, to exempt distillers of brandy made exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates, or citrus fruits (except lemons and limes), or from grape wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, in the manufacture of which artificial sweetening may have been used or from the fruit pomace residuum of such grape wine, or from grape cheese where not more than 500 gallons of a sugar solution made from cane, beet, starch, or corn sugar, 95 per centum pure, and having a saccharine strength of not to exceed 10 per centum, is added to not less than 500 gallons (10 barrels) of such cheese, from any provision of the internal revenue laws relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so. Pursuant to this authority, distillers producing brandy from such materials are hereby exempted from the following provisions of law to the extent indicated:

(a) Section 2812, I.R.C., from so much thereof as requires the distiller to state in his notice the time of fermenting each tub.

(b) Section 2814, I.R.C., from so much thereof as provides that one of the conditions of the distiller's bond shall be that the distiller shall not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be encumbered by mortgage, judgment, or other lien, during the time in which he shall carry on the business of distilling: *Provided*, That this exemption shall not be construed as a waiver of the lien under section 2800 (e), I.R.C., on the interest of the distiller in such property at the time the spirits are produced.

(c) Section 2815 (b), I.R.C., from all the provisions thereof.

(d) Section 2817, I.R.C., from all the provisions thereof.

(e) Section 2819, I.R.C., from so much thereof as provides that no person shall use any still, boiler, or other vessel for the purpose of distilling in any yard or inclosure connected with any dwelling house: *Provided*, That where the distillery and dwelling adjoin, the two must be separated by an unbroken partition of substantial construction; and from so much of said section as prohibits the carrying on of any other business on the distillery premises, to the extent necessary to permit the manufacture of dealcoholized wines on such premises as provided in these regulations.

(f) Section 2820, I.R.C., from all the provisions thereof: *Provided*, That locked receiving tanks are installed by the distiller and all brandy produced is deposited therein, in accordance with these regulations.

(g) Section 2822, I.R.C., as to distilleries heretofore established, from the provisions thereof which require that there shall be a clear space of not less than 1 foot around every wooden still and not less than 2 feet around every doubler and worm tank, and that the doubler and worm tanks shall be elevated not less than 1 foot from the floor.

(h) Section 2826, I.R.C., from all the provisions thereof to the extent that a fence or wall over 5 feet in height may be erected or maintained around the distillery premises, provided a suitable number of gates or doors is installed, and, if such gates or doors are locked, the district supervisor is furnished as many keys to the gates or doors of fences or walls as may be required from time to time, and the distillery is kept accessible to Government officers, and provided further, that if such wall or fence be solid and over 5 feet in height, specific approval therefor is obtained from the district supervisor.

(i) Section 2836 I.R.C., from all the provisions thereof where the district supervisor finds that an emergency exists requiring operation of the distillery between 11:00 p. m. Saturday and 1:00 a. m. Monday for the purpose of preventing the loss, and effecting the salvaging, of crop or other materials.

(j) Section 2838, I.R.C., from all the provisions thereof, except as to the removal of spirits and the penalty therefor: *Provided*, That such exemption shall not apply when an officer is assigned to supervise operations.

(k) Section 2840, I.R.C., from all the provisions thereof.

(l) Section 2844, I.R.C., from all the provisions thereof: *Provided*, That the distiller renders a true and correct report of the operations and transactions at the distillery on Form 15, in duplicate, to the district supervisor immediately after the close of the month and the gauging of all brandy produced during the month, but not later than the 10th day of the succeeding month, in accordance with the requirements of these regulations.

(m) Section 2849, I.R.C., from all the provisions thereof.

(n) Section 2850, I.R.C., from all the provisions thereof: *Provided*, That the distiller shall file notice when desiring to suspend operations and another notice before resuming operations, in accordance with the requirements of these regulations, and shall not carry on the business of a distiller during such period of suspension.

(o) Section 2851, I.R.C., from so much thereof as requires the placing of close-fitting covers upon fermenting tubs for the purpose of reducing the producing capacity of the distillery.

(p) Section 2872, I.R.C., from so much thereof as provides that no door of the internal revenue bonded warehouse shall open into the distillery.

(q) Section 2877, I.R.C., from all the provisions thereof.

(r) Sections 2878 (a) and 2883, I.R.C., to the extent that brandy of any desired proof may be drawn from receiving tanks and (1) removed from the distillery in packages or by pipe line or in tank cars in the manner prescribed in these regulations, or (2) stored in the brandy deposit room of the distillery temporarily as provided in these regulations.

(s) Section 3180, I.R.C., from all the provisions thereof.* (Sec. 2825, I.R.C.)

§ 184.5 *Exemptions subject to change.* The exemptions from the above-mentioned provisions of law shall be subject to such further changes by regulations as may be deemed necessary to insure lawful manufacture and disposition of all brandy produced.* (Sec. 2825, I.R.C.)

ARTICLE V—LOCATION

§ 184.6 *Restrictions.* Fruit distilleries may not be located in a dwelling house, or on board of any vessel or boat, or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether is manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or within 600 feet in a direct line of a vinegar factory using the vaporizing process, or, except as hereinafter provided, within 600 feet in a direct line of any premises authorized to be used for rectifying, or where any other business is carried on: *Provided*, That saleratus, and dealcoholized wines containing less than one-half of 1 percent of alcohol by volume, may be manufactured on fruit distillery premises.* (Sec. 2819, I.R.C.)

§ 184.7 *Within 600 feet of rectifying plant.* The Commissioner may permit the carrying on of the business of distilling brandy at a distance less than 600 feet in a direct line from a rectifying plant when he is of the opinion that the revenue will not be endangered thereby.* (Secs. 2819, 3170, I.R.C.)

§ 184.8 *Special application, Form 1613.* A person desiring to establish a fruit distillery within 600 feet in a direct line from a rectifying plant shall file special application for such privilege, on Form 1613, in quintuplicate, with the district supervisor. The application shall

be duly sworn to, and all of the information called for by the form shall be furnished.* (Secs. 2819, 3170, I.R.C.)

§ 184.9 *Plat.* The special application must be accompanied by a special plat, in triplicate, showing the relative location of the fruit distillery and the rectifying plant premises, all buildings on such premises and the use thereof, the exact distance in feet and inches in a direct line between the two premises, all pipe lines, runways, streets, roads, driveways and other connections between the two premises. Where a pipe line between the two premises traverses an intervening building, such building and its use shall be shown on the plat. The fruit distillery premises and the rectifying plant premises, and such buildings as are required to be shown, shall be outlined in contrasting colors on the plat, which shall be prepared in conformity with section 184.106 of these regulations. Where the information required above is shown on the regular plat of the distillery premises, a copy of such plat may be filed with the special application in lieu of a separate plat.* (Secs. 2819, 3170, I.R.C.)

§ 184.10 *Action on special application.* The district supervisor and the Commissioner will take action on special applications, Form 1613, and accompanying plats, in accordance with the procedure prescribed in Articles XVII and XVIII.* (Secs. 2819, 3170, I.R.C.)

§ 184.11 *Changes requiring approval.* Where there is to be a change in the distance between a fruit distillery and a rectifying plant located within 600 feet of each other, as a result of the extension or curtailment or other change of either premises, a new special application on Form 1613, in quintuplicate, and a new special plat, in triplicate, must be filed with the district supervisor by the proprietor of the premises which is to be extended or curtailed. Where a change occurs in the proprietorship of a distillery or rectifying plant located within 600 feet of each other, the new proprietor shall file with the district supervisor a new special application and a new special plat or a certificate, in triplicate, adopting the plat on file. Where such a change in the distance between the two premises occurs, the fruit distiller must file an amended notice on Form 27½, in triplicate, and an amended plat of the distillery premises, in triplicate, as provided in Article XIV. Such new special applications and plats shall be considered and disposed of in accordance with the procedure prescribed in Articles XVII and XVIII.* (Secs. 2819, 3170, I.R.C.)

ARTICLE VI—CONSTRUCTION

§ 184.12 *Distillery buildings.* The distillery buildings must be securely constructed of brick, stone, wood, concrete, or other substantial material and must be completely separated from contiguous buildings not on the distillery premises by unbroken partitions of substantial construction: *Provided*, That where the

furnace or boiler used for generating steam or heating water for use in the distillery is located off the distillery premises, or where steam is to be conveyed from a boiler in the distillery to other premises for manufacturing or other purposes, or where distilling material or fuel is to be received by chute or pipe line, or where distilled spirits, distilled water, etc., is to be removed from the distillery by pipe line, in accordance with law and these regulations, necessary openings for the passage of the required pipe lines or chutes may be permitted in the walls or partitions separating the distillery from the adjoining premises: *Provided further*, That necessary openings for the passage of approved water, electric, sewer, or similar lines may likewise be permitted in such walls or partitions. Where an internal revenue bonded warehouse is operated by the distiller on the distillery premises and adjoins the distilling building or room, a door may be permitted in the wall separating the warehouse and such building or room. The foundations, floors, walls, and roofs, and the doors, windows, and other openings of distillery buildings shall be constructed, and such doors, windows, and other openings shall be protected and secured, as hereinafter provided.*

§ 184.13 *Foundations*. The foundations of distillery buildings shall be constructed of stone, brick, concrete, or other equally substantial material, extending into the ground.*

§ 184.14 *Floors*. The distillery buildings must have suitable floors constructed of wood, concrete, brick, or other equally substantial material. If a receiving room or brandy deposit room is provided, and the floors are constructed of wood, the boards must be fitted together by tongue and groove, or laid double with the second layer crossing the first at an angle of more than 20 degrees, and securely nailed and fastened.*

§ 184.15 *Walls*. The outside walls of distillery buildings must be securely and substantially constructed. If wood, corrugated iron, or tin is used, the same must be applied over solid sheathing. Where substantial sheet metal is used, and the sheets are welded together in such manner as to constitute a solid wall, solid sheathing will not be required. The ceiling and walls inside of the receiving room and brandy deposit room must be cased with matched tongue and groove boards, unless the use of other material affording equal protection from access without detection is approved by the Commissioner.*

§ 184.16 *Roofs*. The roofs of distillery buildings must be securely and substantially constructed. Where corrugated iron or tin is used, the same must be applied over solid sheathing. Where substantial sheet metal is used and the sheets are welded together in such a manner as to constitute a solid roof, solid sheathing will not be required.*

§ 184.17 *Doors*. The outside doors, and those on which Government locks

are required, as hereinafter provided, must be securely constructed of heavy timber or iron, or other equally substantial material. The hinges must be secured by roundheaded or carriage bolts, nutted and riveted or battered on the inside. Hinges that cannot be thus secured must be inaccessible from the outside and so attached that they cannot be removed when the doors are closed. The outside doors, and those on which Government locks are required, must be equipped with hasp and staple securely fastened on the inside so that they may be securely locked. The doors secured from the inside must be provided with a cross bar in the middle of the door and, in addition thereto, with strong and suitable attachments for the reception of locks. Where there are double doors, one of them at least must be provided with substantial bolts at both the top and the bottom. These bolts must be so arranged as to plunge into substantial fastenings or holes in the middle of the upper and lower ends of the frame when the door is closed. Folding doors of wood or metal, vertical or horizontal sliding doors of wood or metal, and metal doors of the roller blind type, must be provided with substantial cross bars or bolts that plunge into the upper and lower ends or the sides of the door frame, so placed as to make the door rigid and secure, unless the doors operate in grooves or tracks that make them secure.*

§ 184.18 *Windows in receiving and brandy deposit rooms*. The windows in the receiving room and brandy deposit room must be constructed and secured as follows:

(a) *Within 12 feet of ground, etc.* All windows located within 12 feet of the ground, or within 12 feet (1) above a fire escape (except as provided in paragraph (b)), (2) above a roof, setback, or balcony within 12 feet of the ground, (3) above a roof or balcony of an adjoining building, or (4) of a roof, window, or other opening of an opposite building, must conform to the following requirements:

(1) *Wood sash*. Windows consisting of plain or wire glass panes set in wood sash must be protected by iron bars and solid shutters;

(2) *Steel sash*. Windows consisting of wire glass panes not larger than 6 by 10 inches, set in metal sash must be protected by iron bars;

(3) *Detention type*. Windows may be of the detention type, consisting of solid steel frame, sash, and grille, combined in one unit and erected in one piece, equipped with wire glass panes not larger than 6 by 10 inches.

(b) *Opening onto fire escape*. Windows opening onto a fire escape shall be protected by solid metal shutters, securely hinged and equipped with facilities for locking on the inside with a Government lock. Iron bars will not be required on such windows,

(c) *Extension of requirements*. The Commissioner or district supervisor may require any other windows in the receiving and brandy deposit rooms to be protected by iron bars or shutters, or both, when deemed necessary to safeguard the spirits.

(d) *More than 12 feet from ground*. All windows more than 12 feet from the ground and not subject to the provisions of paragraphs (a) and (b) must be securely constructed and so arranged and equipped that they may be securely fastened on the inside.

(e) *Set in casement*. All windows must be securely set into the window casement in such a manner as to prevent ready removal.

(f) *Sash locks*. All window sashes must be provided with sash locks or other suitable fasteners.

(g) *Shutters*. The shutters must be solid and substantially constructed of metal or wood, and must be fastened inside of the room or building and so secured that they cannot be opened from the outside.

(h) *Iron bars*. The iron bars must be not less than three-fourths of an inch in diameter, placed perpendicularly in the windows or walls, not more than 5 inches apart from center to center, and reinforced by iron cross bars not more than 36 inches apart. All bars and cross bars must be securely fastened to the window frames or embedded in the walls in such a manner as to prevent their removal and to afford proper security.*

§ 184.19 *Other windows*. Other windows of distillery buildings must be securely constructed and so arranged and equipped that they may be securely locked and fastened on the inside.*

§ 184.20 *Skylights, monitors, penthouses, etc.* Skylights, monitors, penthouses, and similar openings will be regarded as windows and treated as such, except that shutters will not be required.*

§ 184.21 *Ventilators*. Small openings in outside walls of distillery buildings, and in the ground floors and the roofs thereof, for ventilation or heating purposes, will be permitted, provided they are protected by substantial metal gratings, not lighter than No. 6 gauge and having openings not larger than one-half inch, securely attached to or embedding in the floor, wall, or roof. Where such openings in the walls, floors, and roofs of receiving and brandy deposit rooms are larger than 6 by 6 inches, they shall be further protected by iron bars. Such openings will not be permitted in walls or floors which separate the distillery from contiguous premises.*

§ 184.22 *Drains*. Openings in floors (except floors separating the distillery from other premises) will be permitted for drainage or sewage, provided they are permanently connected to the sewer system and protected in the same manner as ventilators.*

§ 184.23 *Receiving room.* The proprietor may provide a receiving room in which to locate the receiving tanks. If such a room is provided, it shall be constructed in accordance with the applicable provisions of sections 184.12 to 184.22, inclusive. No door, window, or other opening leading from the receiving room into any other building or room, except the distilling building or room, will be permitted: *Provided*, That where the receiving room and brandy deposit room adjoin each other there may be a communicating door between them. All doors of the receiving room shall be locked on the inside with Government locks, except the entrance door and the communicating door, if any, between the receiving room and the brandy deposit room. The entrance door shall be locked on the outside of the receiving room with a Government seal lock and the communicating door between the receiving room and the brandy deposit room shall be locked on the brandy deposit room side. The receiving room must be well lighted, and a sign must be placed over the entrance door bearing the words "Receiving Room."

§ 184.24 *Brandy deposit room.* Unless all brandy is removed from the distillery in accordance with Article XXV during the regular working hours of the same day on which it is drawn from the receiving tanks, there must be provided a room (or building) to be known as the brandy deposit room (or building) for the temporary storage of brandy pending removal thereof from the distillery premises. The brandy deposit room shall be constructed in accordance with the applicable provisions of sections 184.12 to 184.22, inclusive. No door, window, or other opening leading from the brandy deposit room into any other building or room, except the distilling building or room, will be permitted: *Provided*, That where the brandy deposit room and the receiving room adjoin each other there may, as provided in section 184.23, be a communicating door between them. All doors of the brandy deposit room shall be locked on the inside with Government locks, except the entrance door, which shall be locked on the outside of the room with a Government seal lock. The brandy deposit room must be well lighted and of sufficient size for the convenient storage of the quantity of brandy which the distiller may desire to place therein. A sign must be placed over the entrance of the room bearing the words "Brandy Deposit Room."

§ 184.25 *Filled package storeroom.* Where packages are filled from receiving or storage tanks in the brandy deposit room and it is desired to store such filled packages temporarily pending removal from the distillery, a separate compartment or room must be provided within the brandy deposit room for the storage thereof. The construction of such filled package storeroom must conform to the provisions of these regulations governing the construction of the brandy

deposit room. All doors of this compartment or room shall be equipped for locking on the inside with Government locks, except the entrance door which shall be equipped for locking on the outside. The entrance door of the filled package storeroom shall open into the other part of the brandy deposit room.*

§ 184.26 *Fermenting room or building.* Where distilling material is produced on the distillery premises, a room or building must be provided in which shall be located the fermenting tanks, distilling material storage tanks, and distilling material measuring tanks: *Provided*, That where closed tanks are used they need not be located in a room or building. If a fermenting room is provided, it may be located in the distilling building and have direct communication with other portions of such building. Where all distilling material used is produced on other premises, a fermenting room or building need not be provided. The distilling material measuring tank shall in such case be located in the distillery, but not necessarily in a separate room: *Provided*, That where all distilling material used is received from a bonded winery operated by the distiller on contiguous premises, the distilling material measuring tank may be located on the winery premises. Where the distilling material measuring tank is located on a contiguous winery premises a fixed pipe line must be installed for conveying the distilling material from the measuring tank to the distillery, where it shall be conveyed direct to the chargers of the stills or to sumps for immediate transfer to the chargers. If carbon dioxide gas is recovered, the necessary purifiers, scrubbers, and wash-water receiving tanks should be located in the fermenting room or building or in an adjoining room or building.*

§ 184.27 *Empty container storeroom.* If empty packages are to be stored on the distillery premises, a separate room or building must be provided for such purpose. Such room or building shall not have any means of interior communication with any other room or building used in connection with the production or storage of brandy. This room or building may be used for general cooperage purposes.*

§ 184.28 *Government office.* The proprietor shall provide and maintain on the distillery premises for the exclusive use of Government officers a securely constructed, well-lighted, heated, and ventilated office of suitable dimensions: *Provided*, That where the proprietor operates an internal revenue bonded warehouse on or contiguous to the distillery premises, or a bonded winery contiguous to such premises, and a Government office conforming to the requirements specified herein is provided on the warehouse or winery premises, and such office is so located as to be suitable for the use of Government officers assigned to the distillery, a separate Government office need not be provided on the distillery premises. The Government office shall be equipped

with toilet and lavatory facilities, unless such facilities, suitably located, are provided elsewhere on the premises, and with a suitable number of desks, chairs, file cases, and such other furniture as may be necessary for the keeping and preserving of Government records and the preparation of reports. Where distilling materials, etc., are tested by Government officers, the Government office shall also be provided with running water, and such tables and shelves as may be required, unless suitable laboratory facilities are available to Government officers elsewhere on the premises. The door of the Government office shall be equipped with a cylinder type lock, and a sufficient number of keys therefor shall be furnished the district supervisor for the use of Government officers. Where deemed necessary to afford adequate security to Government property, the district supervisor may require the windows of the Government office to be protected by shutters or iron bars, and the door to be so equipped that it may be securely fastened with a Government lock. Where brandy is drawn into packages from receiving or brandy storage tanks the distiller must provide beside the scales on which the packages are weighed a desk or table and chair for the use of the storekeeper-gauger in preparing his reports of gauge.*

§ 184.29 *Government cabinet.* There shall be provided in the Government office a metal cabinet of adequate strength and size, suitably equipped for locking with a Government seal lock, for use in safeguarding Government locks, keys, seals, and other Government property, and stamps in the custody of Government officers. Each such cabinet shall be subject to approval by the district supervisor.*

ARTICLE VII—SIGN

§ 184.30 *Posting of sign.* The proprietor shall place and keep conspicuously on the outside and at the front of the distillery where it can be plainly seen, a sign exhibiting in plain and legible letters, painted in oil colors or gilded, not less than 3 inches in height and of a proper and proportionate width, the name of the distiller and the words "Fruit Distillery," followed by the registered number of the distillery.* (Sec. 2831, I.R.C.)

ARTICLE VIII—FENCES OR WALLS AND GATES

§ 184.31 *Construction.* The distiller may erect around the distillery premises a fence or wall, but a suitable number of gates or doors therein must be provided; and if such fence or wall is to be solid and over 5 feet in height, specific approval for the erection or maintenance thereof must be obtained from the district supervisor.* (Secs. 2825, 2826, 3170, I.R.C.)

§ 184.32 *Keys to gates.* The distiller shall furnish the district supervisor as many keys to the gates or doors of the fence or wall around the distillery as

may be required from time to time, in order to render the distillery readily accessible to Government officers.* (Secs. 2825, 2826, 3170, I.R.C.)

ARTICLE IX—EQUIPMENT

§ 184.33 *Scales for packages.* Where brandy or heads and tails are drawn into packages at the distillery, the distiller must provide suitable and accurate scales, graduated in half pounds, on the distillery premises for weighing the same.* (Sec. 2808, I.R.C.)

§ 184.34 *Weighing tanks.* Where brandy is to be removed by pipe line to the fortifying room of a contiguous winery or to an internal revenue bonded warehouse on the distillery premises, or is to be transferred from the receiving tanks to storage tanks in the brandy deposit room or to railroad tank cars for removal, or where heads and tails are to be destroyed without being drawn into packages or are to be removed in railroad tank cars for denaturation, the distiller must provide on the distillery premises one or more suitable weighing tanks, constructed as provided in the following section, for weighing brandy so removed or transferred, and heads and tails so removed or destroyed: *Provided*, That where all heads and tails are drawn into packages before being destroyed or removed for denaturation, and all brandy, except that drawn into packages, is to be transferred by pipe line direct from the receiving tanks to similar weighing tanks in the fortifying rooms of contiguous wineries or to similar weighing tanks in an internal revenue bonded warehouse on the distillery premises, and weighed therein, a weighing tank need not be provided on the distillery premises. (Sec. 2808, I.R.C.)

§ 184.35 *Construction of weighing tanks.* Weighing tanks shall be constructed of metal and shall be stationary and of uniform dimensions from top to bottom, and each such tank shall be equipped with a suitable measuring device whereby the contents will be correctly indicated. Each weighing tank shall be mounted on accurate scales and shall have plainly and legibly painted thereon the words "Weighing Tank," followed by its serial number and capacity in wine gallons. The inlet and outlet pipe connections of each weighing tank must be fitted with valves so constructed that they can be secured with Government locks, and any other openings in such tanks must also be so constructed that they can be closed and similarly locked. If a receiving room or brandy deposit room is provided, the weighing tank will be located in such room.* (Secs. 2808, 2823, I.R.C.)

§ 184.36 *Test weights.* The distiller shall provide a set of ten 50-pound cast-iron test weights, which shall be certified by the National Bureau of Standards or State departments of weights and measures as conforming to class "C" requirements of the National Bureau of Standards: *Provided*, That test weights

need not be furnished where all brandy produced is transferred directly from the distillery to the fortifying rooms of wineries for the fortification of wine and the distiller has the scales used for weighing brandy, including those upon which weighing tanks are mounted, checked and their accuracy certified to by State, county, or city departments of weights and measures at intervals of not more than six months. If the distiller has provided such test weights at an internal revenue bonded warehouse operated by him on the same or contiguous premises, or at a bonded winery or rectifying plant on contiguous premises, he need not provide a separate set of weights for the distillery. All test weights shall be placed under the control and in the custody of the storekeeper-gauger in charge, who shall keep them under Government lock when not in use.* (Sec. 2808, I.R.C.)

§ 184.37 *Furnace doors, steam and fuel lines.* The door of every furnace of every still or boiler located on the distillery premises must be so constructed that it may be closed and locked with a Government lock in such a manner as will effectually prevent it from being opened and a fire lighted in the furnace or under the boiler: *Provided*, That where the stills are heated with steam and it is necessary to use the boilers for the generation of steam for other purposes during periods when distilling operations are suspended, the doors of the furnaces of such boilers need not be equipped for locking if the pipe lines used to convey steam from the boilers to the stills are provided with valves equipped for locking with Government locks at the point where they enter each still. Where the boilers used for generating steam for the operation of the distillery are located off the distillery premises, the pipe line used to convey the steam to the distillery must be equipped with a valve so constructed that it may be locked with a Government lock, either at the point where it enters the distillery premises or at the point of entrance to the stills. If the stills are operated with fuel conveyed to them by pipe line, such pipe line must likewise be equipped for locking.* (Sec. 2822, I.R.C.)

§ 184.38 *Distilling material measuring and storage tanks.* There must be provided at each fruit distillery one or more distilling material measuring tanks for measuring the distilling material received, and, if distilling material is to be stored on the premises, a requisite number of distilling material storage tanks: *Provided*, That where all distilling material used is received from a bonded winery operated by the distiller on contiguous premises, and such distilling material is conveyed direct from measuring tanks on the winery premises to the chargers of the stills or to sumps for immediate transfer to the chargers, as authorized by section 184.26, such tanks need not be installed in the distillery. Distilling material measuring tanks may be used as storage tanks when not needed for measuring distilling material received

or used. Each distilling material measuring tank or storage tank must be constructed of wood, metal, concrete, or other suitable material, and so arranged as to permit examination of every part thereof. Each such tank must have plainly and legibly painted thereon its designated use, as "Distilling Material Measuring Tank" or "Distilling Material Storage Tank," followed by its serial number, capacity in wine gallons, depth in inches, and, if of uniform dimensions and standing on end, the capacity per inch of depth. Where such tanks are of irregular dimensions or are lying on side, the distiller shall furnish to the district supervisor a table, in duplicate, showing the capacity of the tank for each inch of depth. The district supervisor will retain one copy of the table and forward the other to the storekeeper-gauger, who will retain the same in the Government office. The distiller shall provide an accurate measuring rod, marked in inches, or a steel tape, suitable for use in determining the contents of such tanks. Where such tanks are equipped with an accurate measuring device whereby the contents are correctly shown, the capacity per inch of depth need not be marked on the tank and a measuring rod or tape need not be provided.* (Sec. 2829, I.R.C.)

§ 184.39 *Fermenters.* Where distilling material is to be produced on the distillery premises there must be provided appropriate fermenting tanks. Such tanks shall be located in the fermenting room or building, except that where closed fermenters are used they need not be enclosed in a room or building. The fermenters shall be constructed and marked in the same manner as distilling material measuring and storage tanks are required by section 184.38 to be constructed and marked, except that the designated use of such tanks will be represented by the words "Fermenting Tank," and the markings shall be painted on the tanks in oil colors. Where fermenters are of irregular dimensions or are lying on side, the same provisions shall be made for determining their contents as are required by section 184.38 in the case of distilling material measuring and storage tanks.* (Sec. 2822, I.R.C.)

§ 184.40 *Washwater receiving tanks.* If carbon dioxide gas is recovered, there must be provided a sufficient number of washwater receiving tanks, which shall be constructed of metal and be of uniform dimensions from top to bottom. Each such tank shall be equipped with a suitable measuring device whereby the actual contents will be correctly indicated. There must be painted on each tank the words "Washwater Receiving Tank," followed by its serial number and the capacity in wine gallons. The outlet valve must be equipped for locking with a Government lock.* (Sec. 2829, I.R.C.)

§ 184.41 *Stills.* The stills must be of substantial construction and must have

a clear space of not less than 1 foot around them. The steam or fuel line to each still shall be equipped with a valve so constructed that it may be locked with a Government lock, as provided in section 184.37, when the still is registered "Not for use." The drain and wash-out pipes of stills must also, whenever practicable, be equipped with valves so constructed that they may be locked with Government locks. If there is a furnace under the stills or doublers, the door thereto must, as provided in such section, be so constructed that it may be secured with a Government lock. There must be a clear space of not less than 2 feet around every doubler and condenser or worm tank. The doubler and worm tanks must be elevated not less than 1 foot from the floor. Every still must be numbered commencing with number 1 according to the flow of the spirits and must have painted thereon its designated use, such as "Beer Still," "Doubler," etc., and its number and spirit producing capacity in proof gallons in 24 hours, computed in accordance with the Appendix to these regulations. Where the still is insulated or the manufacturer's serial number is otherwise obscured, such number will likewise be painted on the still.* (Sec. 2822, I.R.C.)

§ 184.42 *General requirements for tanks.* All tanks used as receptacles for spirits between the outlet of the first condenser or worm and the receiving tanks shall be constructed of metal, unless enclosed within a securely constructed room equipped for locking with a Government lock, in which case the tanks may be constructed of wood or concrete. Metal tanks shall be of uniform dimensions from top to bottom. All tanks shall be equipped with a suitable measuring device, conforming to the requirements of section 184.43, whereby the actual contents will be correctly indicated. All tanks must be so constructed as to permit examination of every part thereof, and so arranged as to leave an open space of not less than 3 feet between the top and the roof or floor above. All tanks, such as low-wine tanks, singlings tanks, other unfinished-spirits tanks, heads and tails tanks, fusel oil tanks, distilled water tanks, and similar equipment shall each have plainly and legibly painted thereon its designated use, serial number, and capacity in wine gallons. Man-heads, inlets, and outlets of the tanks and all necessary openings in the distilling apparatus and equipment, except column stills, whereby access may be had to the spirits, must be provided with facilities for locking with Government locks: *Provided*, That distilled water storage tanks need not be so equipped unless a pipe line is connected therewith for the conveyance of distilled water to contiguous establishments, as provided in section 184.45. All openings in tanks and other distilling apparatus and equipment, which are not absolutely necessary, and which can be permanently closed with-

out interference with plant operations, shall be closed by brazing, welding, or otherwise securely fastening and sealing. The tanks used as receptacles for spirits must not be permanently connected with pipe lines used for the conveyance of air, distilled water, or other substances than spirits.* (Secs. 2823, 2829, 3041, I.R.C.)

§ 184.43 *Measuring devices.* All tanks used as receptacles for spirits shall be equipped with floats and counterweights and a proper scale, whereby the actual contents will be correctly indicated, except that tanks located in a locked room may be equipped with suitable and accurate glass gauges. The openings in the tanks for cords or wires for floats and counterweights must be no larger than are absolutely necessary to accommodate the cords or wires. Where tanks equipped with floats and counterweights are in a locked room the scale should be extended to the outside of the room to permit ascertainment of the contents of the tank and thus guard against overflow without the necessity of opening the door of the room. Where tanks in a locked room are equipped with glass gauges, a properly barred and secured window must be provided in the wall or door to permit reading the gauge.* (Sec. 2829, I.R.C.)

§ 184.44 *Heads and tails tanks.* Every fruit distiller desiring to collect heads and tails for destruction or removal for denaturation must provide for the purpose one or more tanks, each of which must be constructed and equipped in accordance with the provisions of section 184.42, and have painted thereon the words "Heads and Tails Tank," followed by its serial number and capacity in wine gallons. The tanks must be so arranged that the distillate to be collected therein will pass from the still into the tank through continuous and securely closed fixed pipes and vessels. The pipe lines connecting the tanks with stills or other apparatus must be constructed in accordance with section 184.52. Valves must be provided in the pipe lines and so arranged as to control completely the flow of distillate both into and out of each tank. The construction of the valves must be such that they can be secured with Government locks.* (Secs. 2823, 2829, 2916, I.R.C.)

§ 184.45 *Distilled water storage tanks.* Distilled water storage tanks shall be so located that their contents may be readily inspected by Government officers, and each such tank shall have painted thereon the words "Distilled Water Storage Tank," followed by its serial number and capacity in wine gallons. Where distilled water is to be conveyed by pipe line to contiguous establishments operated under the internal revenue laws and regulations, the storage tanks from which the distilled water is to be so conveyed must be so constructed that any necessary openings therein may be closed and secured with a Government lock. The pipe line must be an independent one, without any connection with any

other pipe, tank, vessel, or utensil on the distillery premises. The pipe line must be constructed of metal and exposed to view throughout its entire length. The valves, flanges, and other connections in such pipe line on the distillery premises must be brazed, welded, or otherwise secured in such a manner that the pipe line and its connections cannot be detached or altered without showing evidence of tampering.* (Secs. 2823, 2829, I.R.C.)

§ 184.46 *Try boxes.* Try boxes must be provided and so constructed as to permit reading the proof of the spirits, as well as the temperature, without unlocking the same. Such boxes shall be substantially constructed, and shall be equipped for locking with a Government lock. Each try box must be provided with an overflow pipe to permit by-passing of the spirits around the valves controlling the flow from the try box to the receiving tank. The overflow pipe shall be brazed or welded to the pipe line leading to the low-wine, singlings, or receiving tanks.* (Sec. 2829, I.R.C.)

§ 184.47 *Singlings tanks.* Where singlings are produced the distiller shall provide singlings tanks for the reception thereof. Singlings tanks shall be constructed and arranged in accordance with section 184.42, and equipped with a suitable measuring device conforming to the requirements of section 184.43, whereby the actual contents will be correctly indicated. Each singlings tank shall have plainly and legibly painted thereon the words "Singlings Tank," followed by its serial number and capacity in wine gallons. The singlings tanks shall be connected by means of fixed, metal pipe lines with the stills in which the singlings are to be redistilled, or, if it is desired to mingle singlings with distilling material about to be distilled, the singlings tanks may be connected by means of fixed, metal pipe lines with the distilling material sump or the chargers of the still, or the distilling material pipe line leading to the still, in accordance with section 184.48. The pipe lines connected with the singlings tanks shall be provided with valves to control the flow of spirits into and out of the tanks, and such valves shall be so constructed that they may be closed and secured with Government locks. Where the tanks are connected with a closed, locked still in which the singlings are redistilled, the valves controlling the flow of the spirits into and out of the tanks need not be equipped for locking with a Government lock. By the term "closed, locked still" is meant a still of the pot or kettle type, all openings therein by which access may be had to the spirits are closed and secured with Government locks.* (Secs. 2829, 3041, I.R.C.)

§ 184.48 *Sumps and chargers.* Where singlings are to be run into the sump or the chargers of the still and mixed with the distilling material for distillation, the sump and chargers, or the chargers, as the case may be, must be so constructed

that the inlets, outlets, and other openings thereof may be closed and secured with Government locks. The pipe line between the sump and chargers and the still shall be constructed and secured as provided in section 184.52.* (Secs. 2829, 3041, I.R.C.)

§ 184.49 *Receiving tanks.* The distiller shall provide a sufficient number of receiving tanks of adequate capacity, into which shall be conveyed all the brandy produced in the distillery. Such tanks will be located in the receiving room, where such a room is provided. If no receiving room is provided, the distiller may, if he so desires, place receiving tanks in the brandy deposit room, or, if the tanks are constructed of metal, they may be located at some place in the distillery convenient for drawing off spirits. If the tanks are not constructed of metal they must be placed in the brandy deposit room, unless a receiving room is provided. At distilleries where operations are not such as to require the daily attendance of a storekeeper-gauger, the receiving and singlings tanks shall be of such capacity as will necessitate the visit by a Government officer not more than twice a month to gauge the spirits: *Provided*, That the district supervisor may approve tanks of less capacity where, by reason of the location of the distillery, he can assign a storekeeper-gauger to visit the distillery more often than twice a month to gauge the brandy, or where the quantity of brandy produced is such as to make the retention of 15 days' production in the receiving tanks inadvisable. Receiving tanks must be constructed and arranged in conformity with the requirements of section 184.42, and, in addition thereto, such tanks must be elevated not less than 18 inches from the floor and so separated that the Government officer may pass completely around each. Each receiving tank shall be equipped with a suitable measuring device conforming to the requirements of section 184.43. Each such tank shall have plainly and legibly painted thereon the words "Receiving Tank," followed by its serial number and the capacity in wine gallons. Pipe lines connected with receiving tanks must be brazed, welded, or otherwise secured and sealed to the tanks in such a manner that they cannot be detached or altered without showing evidence of tampering. Pipe lines for the conveyance of distilled water, air, or other substances than spirits may not be permanently connected with receiving tanks.* (Secs. 2823, 2829, 3041, 3170, I.R.C.)

§ 184.50 *Stopcocks of receiving tanks.* The stopcocks which control the flow of brandy into the receiving tanks must be so arranged that the brandy may be run into any of the tanks, and if the stopcocks are in the receiving room or brandy deposit room they must be controlled by rods, the handles of which must extend into the distillery or through the wall to the outside of the receiving room or brandy deposit room. The stopcocks controlling the flow of brandy out of

receiving tanks must be so constructed that they may be securely locked with Government locks.* (Secs. 2823, 3041, I.R.C.)

§ 184.51 *Brandy storage tanks.* Where brandy is to be temporarily stored in tanks pending removal from the distillery, such tanks shall be located in the brandy deposit room. The construction of brandy storage tanks shall conform to the requirements of section 184.42. Each brandy storage tank shall have plainly and legibly painted thereon the words "Brandy Storage Tank," followed by its serial number and the capacity in wine gallons.* (Secs. 2823, 2829, 3041, I.R.C.)

§ 184.52 *Pipe lines.* The distillery apparatus and equipment must be closed and continuous, commencing with the first still in which the vapors rise and continuing with securely closed vessels and pipes to the receiving tanks in which the finished product is deposited. All such pipe lines must be of a fixed and permanent character, constructed of metal and so arranged as to be exposed to view throughout their entire lengths. All valves, unions, flanges, and other detachable connections in the pipe lines of the distilling equipment, from the point where the vapors rise in the first still to the receiving tanks, must be so secured by brazing, welding, fastening, and sealing, or locking with Government locks as to effectually prevent disconnection and access to the spirits. Pipe lines from the receiving tanks to storage tanks in the brandy deposit room and from receiving or storage tanks to storage tanks in an internal revenue bonded warehouse on the distillery premises, or to fortifying or storage tanks in the fortifying rooms of contiguous bonded wineries, shall be constructed and secured in a like manner, and similarly exposed to view throughout their entire lengths: *Provided*, That such pipe lines may be connected with weighing tanks by means of flexible metal hose with the ends brazed or welded to the outlet of the tank and the pipe line, or by means of short, detachable hose connections, if the end of the pipe line is fitted with a valve so constructed that it may be secured with a Government lock.* (Secs. 2823, 2829, 3041, I.R.C.)

§ 184.53 *Preparation for sealing.* Where flanges, unions, valves, and other detachable connections in the pipe lines are not secured by welding or brazing, and are not to be secured by Government locks, they must be prepared by the distiller for sealing with "cap" seals. Flanges, unions, and valves will be prepared for sealing, in accordance with the following instructions:

(a) *Sealing flanges.* Flanges may be prepared for sealing by one of the following methods:

(1) By applying a "castle" nut with a hole drilled through the bolt, so the sealing wire may be passed through like a cotter pin, two such nuts being applied to each flange, opposite each other, un-

less the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart;

(2) By drilling a small hole through both nut and bolt, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart; or

(3) By drilling a hole through the corner of the head of the bolt and one through the corner of the nut so the two will be sealed together, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart.

(b) *Sealing unions.* Unions will be prepared for sealing by inclosing the same in a metal box with holes for the sealing wire.

(c) *Sealing valves.* Small gate and globe valves may be prepared for sealing by inclosing the packing nut and hood with a metal band or strap drawn tightly around the flange and fitted for reception of the sealing wire, or by drilling a hole in the packing nut so that sealing wire may be passed through and drawn around the pipe and sealed. Where valves have large flanges, such flanges may be sealed in the same manner as other flanges.* (Secs. 2823, 3041, I.R.C.)

§ 184.54 *Colors for pipe lines.* The pipe lines in the fruit distillery used for conveying the following substances shall be kept painted in the colors indicated:

Black	Brandy or other finished spirits.
Blue	Vapor, singlings, high wines and low wines, or other unfinished spirits.
Red	Distilling material.
Gray	Fermenting material.
Brown	Slop.
Yellow	Fusel oil.
White	Water.
Aluminum	Steam.
Orange	Air.
Olive green	Carbon dioxide gas.

These colors are intended for such pipe lines only, and are prescribed for the purpose of distinguishing such pipe lines from each other and from all other pipe lines on the premises which are painted but for which colors are not prescribed. The painting in one of the prescribed colors, or a color similar thereto, of a pipe line for which a color is not prescribed is prohibited. Pipe lines for which colors are not prescribed may be painted in sections of not more than 3 feet in contrasting colors.* (Sec. 2822, I.R.C.)

§ 184.55 *Sufficient equipment required.* Whenever a fruit distiller desires to produce in his fruit distillery two or more kinds of brandy simultaneously, he must provide sufficient fermenters, distilling apparatus, receiving tanks, and other equipment to permit the production thereof without the com-

mingling of dissimilar brandy.* (Sec. 2829, I.R.C.)

§ 184.56 *Details of construction and equipment.* The Commissioner may approve details of construction and equipment in lieu of those prescribed where it is impracticable to conform to prescribed specifications and as much security will be afforded. Details not covered herein must afford as much security as those prescribed. The Commissioner's approval should be first obtained where substitution is proposed or where the security of proposed construction and equipment not covered herein is doubtful.*

§ 184.57 *Distilleries heretofore established.* Fruit distilleries heretofore established may continue to operate if the present construction and equipment afford adequate security and protection to the revenue. The Commissioner or district supervisor may at any time require the distiller to make changes in construction and equipment conforming to the provisions of these regulations, if deemed necessary to safeguard the revenue or to permit more economical and efficient supervision by Government officers. All fruit distilleries hereafter established, and changes in existing fruit distilleries, must be in conformity with these regulations.* (Secs. 2823, 3170, I.R.C.)

ARTICLE X—FEDERAL ALCOHOL ADMINISTRATION PERMIT

§ 184.58 *Permit required.* Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto (27 CFR, Part 1) any person, except an agency of a State or political subdivision thereof, or any officer or employee of any such agency, intending to engage in the business of producing brandy, is required to procure a permit therefor from the Federal Alcohol Administration. (Sec. 3, 49 Stat., 978; 27 U.S.C. 203)

ARTICLE XI—QUALIFYING DOCUMENTS

§ 184.59 *Notice, Form 27½.* Every person engaged in the business of a fruit distiller or intending to engage therein, or who wishes to continue in such business on and after the 1st day of May of each year, must give notice of such intention on Form 27½, "Fruit Distiller's Notice." This notice must be filed in triplicate with the district supervisor before engaging in the business, and on May 1 of each year thereafter during continuance in such business. Except as provided in section 184.67 in the case of amended or supplemental notices, all of the information indicated by the lines of the form and the instructions printed thereon, and by these regulations, shall be furnished. Notices on Form 27½ must be signed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths. Such notices must be numbered serially, commencing with number 1 and continuing in regular sequence for all notices thereafter filed, whether annual,

amended, or supplemental.* (Secs. 2812, 3170, I.R.C.)

§ 184.60 *Description of premises.* The lot or tract of land on which the distillery is situated must be described on Form 27½ by courses and distances, in feet and inches, with the particularity required in conveyances of real estate. If the distillery premises consists of two or more lots or parcels, the condition of the title to which is not the same, the entire distillery premises shall be first described, followed by a separate description by courses and distances, in feet and inches, of each such lot or parcel. The continuity of the distillery premises must be unbroken, except that the premises may be divided by a public street or highway, if parts of the premises so divided abut on such street or highway, directly and immediately opposite each other. The premises may be similarly divided by a railroad right of way, if the railroad is a common carrier. In such cases, each tract of land constituting the distillery premises shall be described separately on the form.* (Sec. 2812, I.R.C.)

§ 184.61 *Description of buildings and rooms.* All buildings and rooms on the distillery premises shall be accurately described on Form 27½. The description shall include the designated name of the building or room, which shall be according to its use, such as distillery building, brandy deposit room, etc., the materials of which constructed, the dimensions thereof, the location of doors, windows, and other openings, and the manner in which they are secured and protected. Each floor of each building shall be described separately. If more than one building or room is used for the same purpose, the name shall include an alphabetical designation to distinguish them.* (Sec. 2812, I.R.C.)

§ 184.62 *Distilling capacity.* The estimated maximum number of proof gallons of spirits that can be distilled in a day of 24 hours must also be stated in the space provided therefor on Form 27½. The estimated quantity of spirits that can be distilled daily will be based on the capacity of the stills and the use of a maximum strength distilling material. The capacity of the stills will be computed in accordance with the rules set forth in the Appendix of these regulations.* (Sec. 2812, I.R.C.)

§ 184.63 *Daily production.* The estimated maximum quantity of each kind of material that the distiller intends to distill in a day of 24 hours, and the estimated maximum quantity in proof gallons of spirits that will be produced from such materials in a like period, shall be stated on Form 27½. Where the distiller intends to distill different kinds of materials than those covered by Form 27½, or to distill a larger quantity of the specified materials, or to produce a larger quantity of spirits than the maximum indicated by the form, he must file with the district supervisor an amended notice, Form 27½, in triplicate, and, if the tax on the quantity of spirits to be

produced during a period of 15 days will exceed the penal sum of the distiller's bond (if such penal sum is less than the maximum of \$100,000), a new or additional distiller's bond must be filed, as provided in section 184.102. Likewise, where the quantity of spirits actually produced during any period of 15 days exceeds the estimated maximum quantity to be produced during such period, the distiller must file an amended notice on Form 27½ and, where required, a new or additional distiller's bond.* (Secs. 2812, 3170, I.R.C.)

§ 184.64 *Condition of title to premises.* The distiller's title to, or interest in, the distillery premises shall be shown on Form 27½. If the distiller is the owner in fee and the premises are encumbered by a mortgage, judgment, or other lien, the name and address of the mortgagee, judgment creditor, or other lienor, and the kind, date, and amount of the encumbrance and the balance due thereon, shall be stated. If the premises are occupied under lease, the name of the lessor and the length of term and date of its expiration shall be stated.* (Secs. 2812, 2800 (e), I.R.C.)

§ 184.65 *Condition of title to apparatus and equipment.* The distiller's title to, or interest in, the distilling apparatus and equipment shall be shown on Form 27½. If the distiller is the owner of the distilling apparatus and equipment, and such apparatus and equipment are encumbered by a mortgage, judgment, or other lien, the name and address of the mortgagee, judgment creditor, or other lienor, and the kind, date, and amount of the encumbrance and the balance due thereon, shall be stated. If the apparatus and equipment were purchased by the distiller under a conditional sales contract, or other form of title-retaining contract, the name and address of the conditional sales vendor, the purchase price and the balance due thereon, shall be stated.* (Secs. 2812, 2800 (e), I.R.C.)

§ 184.66 *Distance from rectifying plant or vinegar factory.* If the distillery premises are situated more than 600 feet in a direct line from any premises authorized to be used for rectifying spirits, or from a vinegar factory using the vaporizing process, such fact shall be stated on Form 27½. If the distance between the distillery premises and the premises of a rectifying plant is less than 600 feet in a direct line, there must be stated in the notice, Form 27½, the name of the proprietor of the rectifying plant, the exact distance in feet and inches between the distillery and the rectifying plant, and whether the location of the distillery within such distance of the rectifying plant has been approved by the Commissioner. If such location of the distillery has been approved by the Commissioner, the date of such approval shall be given. If the distance between the distillery premises and a vinegar factory using the vaporizing process is less than 600 feet in a direct line, such fact and the date of establishment of the

vinegar factory shall be stated on the form.* (Secs. 2812, 2819, 2834, 2835, 3170, I.R.C.)

§ 184.67 *Amended and supplemental notices.* Amended and supplemental notices on Form 27½ may be executed in skeleton form, except as to the items amended or supplemented. All other items which are correctly set forth in prior notices, and in which there has been no change since the last preceding notice, may be incorporated in the amended or supplemental notice by reference to the respective notice previously filed. Such incorporation by reference shall be made by entering for each such item in the space provided therefor the statement "No change since filing Form 27½, Serial No. ----" (the number being inserted), and the date of such form.* (Sec. 2812, I.R.C.)

§ 184.68 *Corporate documents.* There must be submitted with, and made a part of, the original or initial notice on Form 27½, given by a corporation to engage in the business of a fruit distiller, properly certified copies, in triplicate, of the following documents:

- (a) Articles of incorporation and any amended articles of incorporation.
- (b) Certificate of incorporation.
- (c) Certificate authorizing corporation to operate in State where distillery is located, if other than that in which incorporated.
- (d) Extracts of minutes of meeting of stockholders, showing election of directors.
- (e) By-laws.
- (f) Extracts of the minutes of meetings of the board of directors, showing the election of officers.
- (g) Extracts of the minutes of meetings of the board of directors, authorizing certain officers or other persons to sign for the corporation.
- (h) List of the names and addresses of the officers and directors.
- (i) List of stockholders, as provided in the following section.* (Sec. 2812, I.R.C.)

§ 184.69 *List of stockholders.* In the case of corporations and similar legal entities, there must be submitted with Form 27½, at the commencement of business and annually thereafter on May 1, a list of the names and addresses of all stockholders and other persons interested in the corporation or other legal entity and the amount and nature of the stock-holding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him: *Provided*, That where more than 100 persons are interested in the corporation or other legal entity as stockholders or otherwise, there need be furnished only the names and addresses and the amounts and nature of the stock-holding or other interest of the 100 persons having the largest ownership or other interest in each of the respective classes of stock or other interest, except where more complete information shall be specifically required by the Com-

missioner: *And provided further*, That where there has been no change in the list of stockholders and other persons interested in the corporation or other legal entity, the distiller may furnish, in connection with the annual notice, a certified statement, in triplicate, to that effect in lieu of the prescribed list. Where a corporation operates two or more distilleries or other plants situated in the same supervisory district, or wholly owns one or more subsidiaries operating distilleries or other plants so situated, and in connection with qualifying for the operation of one of such distilleries or plants files a list of stockholders and other persons interested, as prescribed herein, the filing of an additional list for each distillery will not be required, provided that in lieu of such additional list there is submitted with the distiller's notice, Form 27½, a certificate, in triplicate, definitely identifying the corporation and plant with whose notice the list of stockholders and other persons interested is filed, and giving the date of the filing thereof.* (Sec. 2812, I.R.C.)

§ 184.70 *Affidavit.* In the case of a corporation, there must be submitted with each list of stockholders an affidavit, in triplicate, executed by an officer of the corporation authorized so to do, showing the number of shares of each class of stock or other evidence of ownership, such as voting trust certificates, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders, and certifying to the correctness of the list of stockholders or the statement authorized to be furnished with the notice in lieu of such list. In the case of an individual owner, copartnership, or association, there must be submitted with Form 27½, at the commencement of business and annually thereafter on May 1, an affidavit, in triplicate, giving the name of every person interested or to be interested in the distillery, whether such interest appears in the name of the interested party or in the name of another for him.* (Sec. 2812, I.R.C.)

§ 184.71 *Articles of copartnership or association.* In the case of a copartnership or association, a certified copy, in triplicate, of the articles of copartnership or association, if any, and, where the business is to be conducted under a firm or trade name, a trade name certificate or statement in lieu thereof conforming to provisions of section 184.122 (a) (1), shall be submitted with and constitute a part of the notice, Form 27½.* (Sec. 2812, I.R.C.)

§ 184.72 *Power of attorney Form 1534.* If the notice or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, or corporation, or by one of the members for a copartnership or association, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in section 184.68, such notice or other qualifying documents must be sup-

ported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the document to execute the same. Such powers of attorney will be executed on Form 1534, in triplicate, and submitted to the district supervisor.* (Sec. 2812, I.R.C.)

§ 184.73 *Execution of power of attorney.* Where the principal giving the power of attorney is an individual, it must be executed by him in person, and not by an agent. In the case of a copartnership or association, powers of attorney authorizing one or more of the members, or another person, to execute documents on behalf of the copartnership or association must be executed by all of the members constituting the copartnership or association. However, if one or more members less than the whole number constituting the copartnership or association have been delegated the authority to appoint agents or attorneys in fact, the power of attorney may be executed by such member or members, provided it is supported by a duly authenticated copy, in triplicate, of the document conferring authority upon the member or members to execute the same. Where, in the case of a corporation, powers of attorney are executed by an officer thereof, such documents must be supported by triplicate copies of the authorization of such officer so to do, certified by the secretary or assistant secretary of the corporation, under the corporate seal, if any, to be true copies.* (Sec. 2812, I.R.C.)

§ 184.74 *Duration of power of attorney.* Powers of attorney authorizing the execution of documents on behalf of a person engaged in, or intending to engage in, the business of a fruit distiller shall continue in effect until written notice, in triplicate, of the revocation of such authority is received by the district supervisor, unless terminated by operation of law.* (Sec. 2812, I.R.C.)

§ 184.75 *Bond, Form 30½.* Every person intending to commence or to continue the business of a fruit distiller shall, upon filing his notice of such intention, Form 27½, and before proceeding with such business, and on the 1st day of May of each succeeding year, execute bond on Form 30½, "Fruit Distiller's Bond," in triplicate, in conformity with the provisions of Article XII, and file the same with the district supervisor.* (Secs. 2814, 3170, I.R.C.)

§ 184.76 *Penal sum.* The penal sum of the distiller's bond, Form 30½, shall be not less than the amount of the internal revenue tax at the rate prescribed by law on the maximum quantity of brandy that will be distilled in the distillery during a period of 15 days of 24 hours each, but in no case shall the penal sum of the bond be less than \$5,000 or greater than \$100,000. Where the distiller has not furnished bond in the maximum penal sum of \$100,000 and he intends to produce a larger quantity of spirits than that covered by his bond, he must file a new or additional bond in a sufficient penal sum to cover the tax on the in-

creased quantity to be produced. Likewise, where the quantity of spirits actually produced during any period of 15 days exceeds the penal sum of the bond on file, if in less than the maximum penal sum, the distiller must furnish immediately a new or additional bond in a sufficient penal sum, effective as of the beginning of such period. If an additional bond is furnished in either case, it must be in accordance with section 184.102.* (Sec. 2814, I.R.C.)

§ 184.77 *Registry of stills, Form 26.* Every person having in his possession or custody, or under his control, any still or distilling apparatus set up must register the same with the district supervisor for the district in which it is located, on Form 26, "Registry of Stills," in triplicate, immediately it is set up.* (Secs. 2810, 3170, I.R.C.)

§ 184.78 *Plat and plans.* Every person intending to engage in the business of a fruit distiller must submit to the district supervisor with his notice, Form 27½, an accurate plat of the distillery premises and accurate plans of the buildings, apparatus, and equipment thereon, in triplicate, conforming to the requirements of Article XIII.* (Secs. 2816, 3170, I.R.C.)

§ 184.79 *Statement of process.* There must be submitted to the district supervisor with the distiller's notice, Form 27½, a statement of process, in triplicate. Such statement shall describe in detail the process to be followed in the production of brandy. Nonalcohol producing materials or substances used in the distilling material for the purpose of providing yeast food or for inhibiting the action of wild yeast or bacteria, or for any other purpose, must be reported in the description of process used by the distiller. Materials or chemicals which are volatile and would remain incorporated with the finished brandy after final distillation may not be used. Where any material or substance is to be introduced into the spirits during the course of original and continuous distillation, the statement must include a description of such product and its composition. Samples of any such material or substance will be prepared and furnished to the district supervisor for analysis by Government chemists.* (Sec. 3254 (g), I.R.C.)

§ 184.80 *Copies of permit.* Every person intending to engage in the business of a fruit distiller must present to the district supervisor for examination the original basic permit issued to him by the Federal Alcohol Administration and file with the district supervisor two photostatic copies of such permit. The photostatic copies of such permits shall be 8 by 10½ inches in size, and shall accompany the notice, Form 27½.*

§ 184.81 *Additional information.* The Commissioner or the district supervisor may at any time, in his discretion, require the proprietor of a fruit distillery to furnish such additional information as he may deem necessary.*

§ 184.82 *Instruments and papers made part of regulations.* The terms, condi-

tions, and instructions contained in instruments and papers required to be furnished by law or regulations are hereby made a part of these regulations as fully and to the same extent as if incorporated herein.*

ARTICLE XII—BONDS AND CONSENTS OF SURETY

§ 184.83 *General requirements.* Every person required to file a bond or consent of surety under these regulations shall prepare and execute it on the prescribed form, in triplicate, in accordance with these regulations and the instructions printed on the form, and shall submit it to the district supervisor.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.)

§ 184.84 *Surety or security.* Bonds required by these regulations shall be given with surety or collateral security: *Provided*, That in any case where the distiller operates an internal revenue bonded warehouse on the distillery premises, and the distiller's bond, Form 30½, is in the maximum penal sum of \$100,000, it may be accepted without surety if it is supported by the consent of the surety on the transportation and warehousing bond, Form 1571, which bond in such case shall be in the maximum penal sum of \$200,000. If bonds on Forms 30½ and 1571 in the maximum penal sums stated are not given, separate bonds on said forms, each with surety or security, must be given in sufficient penal sums.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.; sec. 1126, 44 Stat. 122; sec. 7, 49 Stat. 22; 6 U.S.C. 15)

§ 184.85 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356, Commissioner of Accounts and Deposits, Section of Surety Bonds, which is issued semiannually, and subject to such amendatory circulars as may be issued from time to time.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.; sec. 1, 28 Stat. 279; 6 U.S.C. 6; c. 109, 36 Stat. 241; 6 U.S.C. 8)

§ 184.86 *Two or more corporate sureties.* A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided*, That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such limited liabilities must equal the required penal sum of the bond.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.; sec. 1, 28 Stat. 279; 6 U.S.C. 6; c. 109, 36 Stat. 241; 6 U.S.C. 8)

§ 184.87 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and

passed upon by, the Commissioner of Accounts and Deposits, Section of Surety Bonds, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, district supervisors.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.; sec. 1, 28 Stat. 279; 6 U.S.C. 6; c. 109, 36 Stat. 241; 6 U.S.C. 8)

§ 184.88 *Individual sureties.* Bonds may be given with individual sureties, of which there must be not less than two, each of whom must qualify by executing Form 33, "Affidavit of Individual Surety on Bond," in triplicate. Individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.89 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. Such real property must be located within the State where the business of the principal is to be conducted.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.90 *Description of real property.* The real property must be described in the surety's affidavit, Form 33, with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.91 *Execution of Form 33.* The surety's affidavit on Form 33 shall contain all of the information required by these regulations and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.92 *Certificate of title.* There must be submitted with the surety's affidavit, Form 33, a certificate of title, in triplicate, showing that the surety has a fee simple title, free of encumbrances, to the realty described in the form.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.93 *Appraisal.* There will also be submitted with Form 33 an appraisal, in triplicate, by two or more competent persons designated by the district supervisor for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.94 *Investigation.* The district supervisor will cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 and supporting documents, and shall forward

one copy of the report of such investigation to the Commissioner with the bond and accompanying Form 33.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.95 *Requalification.* The Commissioner or district supervisor may at any time, in his discretion, require the requalification of individual sureties on Form 33.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.)

§ 184.96 *Interest in business.* The surety, whether individual or corporate, must have no interest whatever in the business covered by the bond.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.97 *Deposit of collateral.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties. District supervisors on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities as required by Department Circular No. 154, revised (31 CFR, Part 225).* (Sec. 1126, 44 Stat., 122; sec. 7, 49 Stat., 22; 6 U.S.C., 15)

§ 184.98 *Consents of surety.* Consents of surety to a change in the terms of a bond must be executed on Form 1533, "Consent of Surety to Change in Terms of Bond," in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to execute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate district supervisor, through the office of the Commissioner; or the consent may be executed by the home office officials of such corporate surety; except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, order its execution. A copy of such specific direction should be attached to each copy of such consent.* (Secs. 2814, 2885, 2886, 2888, I.R.C.)

§ 184.99 *Approval required.* No individual, firm, partnership, corporation, or association intending to commence or to continue the business of a fruit distiller shall commence or continue such business until all bonds in respect of such business required by any provision of law have been approved.* (Sec. 2815 (c), I.R.C.)

§ 184.100 *Authority to approve.* District supervisors are authorized to approve or disapprove all bonds and con-

sents of surety covering the exportation of brandy. All other bonds and consents of surety filed by an individual, firm, partnership, corporation, or association in respect to the business of a fruit distiller will be approved or disapproved by the Commissioner.* (Secs. 2814, 2815, 3170, I.R.C.)

§ 184.101 *Cause for disapproval.* Bonds or consents of surety submitted by any individual, firm, partnership, corporation, or association in respect to the business of a fruit distiller may be disapproved if the individual, firm, partnership, corporation, or association giving the same, or owning, controlling, or actively participating in the management of such business of the individual, firm, partnership, corporation, or association giving the same, shall have been previously convicted in a court of competent jurisdiction of (1) any fraudulent noncompliance with any provision of any law of the United States, if such provision relates to internal revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise; or (2) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquor, or other intoxicating liquor. The fruit distiller's bond, Form 30½, may also be disapproved if the situation of the distillery is such as would enable the distiller to defraud the United States.* (Secs. 2814, 2815 (d), I.R.C.)

§ 184.102 *Additional or strengthening bonds.* In all cases where the penal sum of the bond on file and in effect is not sufficient, computed as prescribed by law and regulation, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, are in no sense substitute bonds, and the district supervisor will refuse to approve, or recommend the approval of, any additional or strengthening bond where any notation is made thereon intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."* (Secs. 2314, 2885, 2886, 2888, I.R.C.)

§ 184.103 *New bond.* A new bond may be required at any time in the dis-

cretion of the Commissioner or district supervisor. A new bond shall be required immediately in the case of the death, or insolvency of an individual surety, or the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Commissioner or the district supervisor, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. Where a bond is found to be not acceptable, the principal shall be required to file immediately a new and satisfactory bond, or discontinue business forthwith.* (Secs. 2814, 2885, 2886, 2888, 3170, I.R.C.)

§ 184.104 *Superseding bond.* Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, notice of termination of the superseded bond may be issued as provided in Article XIX. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by the obligors at the time of execution, "Superseding Bond."* (Secs. 2814, 2885, 2886, 2888, I. R. C.)

ARTICLE XIII—PLATS AND PLANS

§ 184.105 *Plat and plans required.* Every person intending to engage in the business of a fruit distiller must, as provided in section 184.78, file an accurate plat and accurate plans of the distillery premises, apparatus, and equipment, in triplicate, with the district supervisor.* (Secs. 2816, 3170, I.R.C.)

§ 184.106 *Preparation.* Every plat and plan shall be drawn to scale and each sheet thereof shall bear a distinctive title, enabling ready identification. The cardinal points of the compass and the complete name and address of the proprietor must appear on each sheet. Each sheet of the original plat and plans shall be numbered, the first sheet being designated number 1 and the other sheets numbered in consecutive order. Plats and plans shall be submitted on sheets of tracing cloth or sensitized linen. The dimensions of plats and plans shall be 15 by 20 inches outside measurement, with a clear margin of at least 1 inch on each side of the drawing, lettering, and writing. Plats and plans may be original drawings, or reproductions made by the "ditto process," or by blue or brown line lithoprint, if such reproductions are clear and distinct.* (Sec. 2816, I.R.C.)

§ 184.107 *Description of distillery premises.* Plats must show the outer boundaries of the distillery premises by courses and distances, in feet and inches,

in a color contrasting with those used for other drawings on the plat, and the point of beginning with respect to its distance and bearings from some near and well-known landmark must be shown. The plat must also contain an accurate description of the building or buildings comprising the premises. The description of the premises should agree with the description in the notice, Form 27½. If the distillery premises consists of two or more lots or parcels of land, the condition of the title to which is not the same, each such lot or tract shall be separately described by courses and distances, in feet and inches, and such lots or parcels shall be delineated or cross-hatched in contrasting colors. If the premises are separated by a public highway, or railroad right of way, and the tracts of land comprising the premises, or parts thereof, abut on such highway, or right of way, directly opposite each other; the different tracts will be described separately by courses and distances, in feet and inches, and outlined in a color contrasting with those used for other drawings on the plat. If two or more buildings are to be used, they must be shown in their relative positions, the designated name of each indicated, and all pipe lines or other connections, if any, between the same depicted. Where two or more buildings are used for the same purpose the name of each such building shall include an alphabetical designation, beginning with "A," and they shall be so shown on the plat. All first floor openings of each building on the premises will be shown on the plat. Except as provided in section 184.116, all pipe lines leading to or from the premises, the purpose for which used, and the points of origin and termination will be indicated on the plat.* (Sec. 2816, I.R.C.)

§ 184.108 *Rectifying plant within 600 feet.* Where a fruit distillery is to be established on premises at a distance of less than 600 feet in a direct line from a rectifying plant, the plat must show the relative location of such premises, all pipe lines and other connections, if any, between them, and the distance, in feet and inches, that they are from each other in a direct line. The outlines of the two premises must be shown in contrasting colors.* (Sec. 2819, I.R.C.)

§ 184.109 *Contiguous premises.* Where an internal revenue bonded warehouse, bonded winery, rectifying plant, or tax-paid bottling house, or other premises on which liquors are manufactured, stored, or sold, are contiguous to the distillery premises the plat must show the relative location of the distillery and such contiguous premises, and all pipe lines, if any, and other connections between them. The outlines of such contiguous premises and the distillery premises must also be shown in contrasting colors.*

§ 184.110 *Floor plans.* The plans will include a floor plan of each floor of each

building, indicating the dimensions of the rooms and floors and the location of all doors, windows, and other openings, and their dimensions, and how such openings are protected. All apparatus and equipment must be shown in their exact location on the floor plans and their designated use indicated. In the case of stills, tanks, and similar equipment, the serial number and capacity shall also be shown. The exact location of pipe lines and Government locks shall be shown.* (Sec. 2816, I.R.C.)

§ 184.111 *Elevational plans of equipment.* Vertical, sectional, or elevational plans of apparatus and equipment shall be submitted, and such plans shall clearly depict the construction of all equipment and all pipe lines and other connections of the equipment, and the location of valves, flanges (except as provided in section 184.114), Government locks, measuring devices, etc. The plans must be so drawn that all fixed pipe lines, except those indicated by section 184.116, may be traced from beginning to end.* (Sec. 2816, I.R.C.)

§ 184.112 *Elevational plans of buildings.* The plans will also include an exterior, elevational view of each exposure of each building or room, showing the construction of the foundations, floors, and walls, and the type of security afforded the openings. The number of stories, and the height of each story, will be indicated on the elevational plans.* (Sec. 2816, I.R.C.)

§ 184.113 *Colors for pipe lines.* The pipe lines must be shown on the plans in the colors in which they are required to be painted, as follows:

Black-----	Brandy, or other finished spirits.
Blue-----	Vapor, singlings, high wines and low wines, or other unfinished spirits.
Red-----	Mash, or other distilling material.
Gray-----	Fermenting material.
Brown-----	Slop.
Yellow-----	Fusel oil.
White-----	Water.
Aluminum-----	Steam.
Orange-----	Air.
Olive green--	Carbon dioxide gas.

* (Sec. 2816, I.R.C.)

§ 184.114 *Location of valves, flanges, locks, etc.* All valves, flanges, and other connections in pipe lines must be properly indicated on the plans: *Provided*, That where flanges, unions, or other connections in pipe lines are brazed, welded, or otherwise permanently secured in such a manner as to constitute a continuous, single pipe line, the location of such flanges, unions, or other connections, and the manner of securing the same, need not be shown on the plans. The location of all Government locks required to secure the apparatus and equipment, and the doors of rooms and buildings, must be indicated on the plans by the symbol "GL" at the points where the locks are to be attached.* (Sec. 2816, I.R.C.)

§ 184.115 *Direction of flow.* The direction of the flow of the distilling material, vapor, spirits, etc., through pipe lines must be indicated on the plans by arrows.* (Sec. 2816, I.R.C.)

§ 184.116 *Pipe lines exempted.* Approved public or private utility service lines, such as sewers, electric or gas conduits or pipes, and approved sprinkler, refrigeration, or heating systems which have no connection with the distilling equipment or any apparatus or pipe line connected therewith, need not be shown on the plans, provided that the point of entry to the bonded premises shall be indicated on the plans.* (Sec. 2816, I.R.C.)

§ 184.117 *Process flow sheet.* A diagrammatic or isometric process flow sheet must be filed, showing the receipt of the fermenting or distilling material on the premises and the actual flow thereof through the mash tubs, fermenters, sumps, chargers, stills, doublers, try boxes, high and low wine tanks, and other equipment, and the deposit of the finished spirits in the receiving tanks.* (Sec. 2816, I.R.C.)

§ 184.118 *Certificate of accuracy.* Every sheet of every plat and plan, whether original, supplemental, or superseding, shall bear a certificate of accuracy, dated and signed by the draftsman, proprietor, and district supervisor. The certificate shall be placed in the lower right-hand corner of each sheet and shall be in the following form:

----- Supervisory District, ----- 19-----
It is hereby certified that this is an accurate -----
----- (Original, supplemental, sheet or superseding)
No. ----- of the ----- of Fruit Distillery
----- (Plat or plan)
No. -----, of -----
----- (Name of proprietor)
----- (Street and number) ----- (City and State)
in this district.
Date of district supervisor's approval.
----- (Date)
----- (Draftsman)
----- (Proprietor)
----- (District Supervisor)

* (Secs. 2816, 3170, I.R.C.)

§ 184.119 *Supplemental, superseding, and additional plats and plans.* The sheets of superseding plats or plans shall bear the same numbers as the sheets superseded. The sheets of supplemental plats or plans shall bear the same numbers as the sheets supplemented, and will be further identified by letter designation, as "1-A," "5-B," etc. Additional sheets of plans, filed to cover extensions of the distillery premises, will be given the next number in sequence to the last sheet of the plan on file. Additional sheets of plats, filed to cover extensions of the distillery premises, will be given the same number as the last sheet of the plat on file, further identified by an additional

number, as 1-1, 2-1, etc.* (Sec. 2816, I.R.C.)

ARTICLE XIV—REQUIREMENTS GOVERNING CHANGES IN NAME, PROPRIETORSHIP, CONTROL, LOCATION, PREMISES AND EQUIPMENT

§ 184.120 *General requirement.* Under the law, notice in writing must be given, in the form prescribed by the Commissioner, to the district supervisor in case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of the distillery.* (Secs. 2812, 2817, I.R.C.)

§ 184.121 *Change in individual, firm, or corporate name.* Where there is a change in the individual, firm, or corporate name of the distiller, he must comply with the following requirements:

(a) *Copies of amended permit.* Procure from the Federal Alcohol Administration an amended basic permit authorizing operation of the distillery under the new name, and, as provided in section 184.80 in the case of original permits, present to the district supervisor for examination the amended permit and file with the district supervisor two photostatic copies of such amended permit.

(b) *Notice, Form 27½.* Submit to the district supervisor, with the required photostatic copies of the amended permit, notice on Form 27½, in triplicate, covering the new name, which notice must be approved before operations may be commenced under the new name.

(c) *Amended articles of incorporation, etc.* In the case of a corporation, submit to the district supervisor certified copies, in triplicate, of the amended articles of incorporation and the amended certificate of incorporation issued under the laws of the State in which incorporated, covering the change in the corporate name. If the operations are conducted in a State other than the State in which incorporated, there must also be submitted to the district supervisor certified copies, in triplicate, of the amended certificate issued under the laws of the State in which the operations are conducted authorizing the corporation to operate under its new name in such State. If other documents than those specified are required under the laws of the State to effect a change in the name of the corporation, certified copies, in triplicate, of such documents must be submitted with the notice, Form 27½, in lieu of those specified.

(d) *Amended articles of partnership or association.* If the distiller is a co-partnership or association, submit to the district supervisor certified copies, in triplicate, of the amended articles of partnership or association, if any.

(e) *Sign.* Change the distillery sign to conform to the provisions of section 184.30.

(f) *Branding and warehousing.* Upon receipt of the district supervisor's authorization, as provided in section 184.151, the distiller will mark and brand

and remove under such new name the finished spirits produced thereunder.

(g) *Records.* Keep records and submit reports covering operations under the new name, as provided in Article XXXI, in the case of operations under different trade names or styles.* (Secs. 2812, 2878, 2831, 2841, 3170, I.R.C.)

§ 184.122 *Trade names.*—(a) *New trade names.* Where the distillery is to be operated under a trade name or style, or a number of trade names or styles, other than those previously approved, the distiller must comply with the provisions of section 184.121 (a), (b), and (d), and, in addition thereto, the following requirements:

(1) *Trade name certificate.* In the case of a change in the trade name or style, submit to the district supervisor certified copies, in triplicate, of the certificate or other document filed with or issued by State officials under the laws of the State, to cover the transaction of business under such trade name or style. If no such certificate or other document is required by the laws of the State to be filed with or issued by any State official to cover the transaction of business under a trade name, the distiller shall furnish a statement to that effect.

(2) *Amended articles of incorporation, etc.* In the case of a corporation, submit to the district supervisor certified copies, in triplicate, of amended articles of incorporation and of certificates issued under the laws of the State in which incorporated, and of the State in which the business is operated if different from the State in which incorporated, authorizing the corporation to do business under such trade name or style. If other documents than those specified are required under the laws of the State to effect a change in the trade name of the corporation, certified copies, in triplicate, of such documents must be submitted with the notice, Form 27½, in lieu of those specified.

(3) *Sign.* Change the distillery sign to conform to the provisions of section 184.30, unless operation under the trade name is to be temporary, in which event it will not be necessary to change such sign.

(4) *Branding and warehousing.* Mark and brand and remove under each trade name the finished spirits produced thereunder as provided in Article XXXI.

(5) *Records.* Make appropriate entries in the distillery records covering operations under each trade name, as provided in Article XXXI.

(6) *Period of operations.* Where the distillery is operated under more than one trade name or style, the operation under each must be in multiples of 24 hours.

(b) *Approved trade names.* Where a trade name or style has been approved by the Commissioner and the distiller thereafter desires again to operate under such approved trade name or style, he must comply with the provisions of para-

graph (a) (3), (4), (5), and (6) of this section, and, in addition thereto, the following requirements:

(1) *Notice, Form 27½.* Each time operations are to be conducted under a trade name or style previously approved by the Commissioner, submit to the district supervisor notice on Form 27½, in triplicate, prior to the time the change is to be made.* (Secs. 2812, 2841, 2878, 2831, 3170, I.R.C.)

§ 184.123 *Change in proprietorship.*—(a) *Suspension.* Where there is to be a change in the proprietorship of the distillery, the outgoing distiller must, preparatory to transfer of the business to the successor, comply with the following requirements:

(1) *Notice, Form 27½.* If the outgoing distiller is to discontinue permanently the business of distilling spirits, file with the district supervisor Form 27½, in triplicate, stating thereon the purpose to be "Discontinuance of business," and giving the date of the discontinuance. If the outgoing distiller is to temporarily discontinue the business of distilling during operation of the distillery by the successor, the statement of the purpose on the notice shall conform to the provisions of section 184.135 (a).

(2) *Registry of stills.* Register the stills "Not for use" on Form 26, in triplicate, in accordance with section 184.391.

(3) *Notice of suspension.* File with the district supervisor Form 124, "Notice of Suspension," in triplicate, in accordance with Article XXIX.

(4) *Finished spirits.* Draw off, brand and mark, and remove all finished spirits in the individual, firm, or corporate name, or trade name or style, under which they were produced, in accordance with Article XXXIII.

(5) *Materials and unfinished spirits.* If distilling materials and unfinished spirits are to be transferred to the successor, file with the district supervisor Form 1614, "Transfer Agreement," in sextuplet, in accordance with Article XXXIII; if the unfinished spirits and distilling materials are not to be so transferred, completely finish operations in accordance with the provisions of said article.

(6) *Records.* Make appropriate entries in the distillery records and submit reports in accordance with the provisions of section 184.410.

(b) *Qualification of successor.* Where there is a change in proprietorship, and the successor intends to continue operation of the plant as a fruit distillery, he must comply with the following requirements:

(1) *Lessee.* If the successor is a lessee, he must qualify in the same manner as the proprietor of a new distillery, regardless of the temporary nature of the tenancy, except that he may adopt the plat and plans of his predecessor as provided in subparagraph (5). The lessee must also file with the district supervisor certified copies, in triplicate, of the lease.

(2) *Other non-fiduciary successor.* If the change in proprietorship is brought about by any other means, except by the appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must likewise qualify in the same manner as the proprietor of a new distillery, except that he may adopt the plat and plans of his predecessor as provided in subparagraph (5).

(3) *Fiduciary.* If the successor is an administrator, executor, receiver, trustee, assignee, or other fiduciary, and intends to produce spirits, or to possess or dispose of spirits on hand in the distillery, he must comply with the provisions of Articles V, X, and XI, to the extent that such provisions are applicable, except that in lieu of filing a new bond and new plat and plans, the fiduciary may furnish a consent of surety extending the terms of his predecessor's bond and adopt the plat and plans of such predecessor in accordance with subparagraphs (4) and (5). The fiduciary must also furnish certified copies, in triplicate, of the order of the court or other pertinent documents showing his qualification as such fiduciary. The effective date of the qualifying documents filed by a fiduciary should be the same as the date of the court order or the date specified therein for him to assume control.

(4) *Consent of surety.* The consent of surety extending the terms of the predecessor's bond to cover operation of the distillery by a fiduciary must conform to the requirements of section 184.98, and be executed by both the fiduciary and the surety.

(5) *Adoption of plat and plans.* The plat and plans of the distillery may be adopted by a successor where they correctly describe and depict the distillery premises and the buildings, apparatus, and equipment thereon, to be taken over by the successor. The adoption by a successor of the plat and plans of his predecessor shall be in the form of a certificate, in triplicate, in which shall be set forth the name of the predecessor, the address and registered number of the distillery, a description of the distillery premises, the number of each sheet comprising each plat and plan covered by such certificate, and a statement that the distillery premises, and the buildings, apparatus, and equipment thereon, are correctly described and depicted on such plat and plans.

(6) *Sign.* The successor, if other than a fiduciary temporarily operating the distillery, must change the distillery sign to conform to the requirements of section 184.30.

(7) *Materials and unfinished spirits.* If distilling materials and unfinished spirits are received by transfer from the predecessor, the successor must comply with the requirements of Article XXXIII.* (Secs. 2812, 2814, 2841, 2878, 2810, 2816, 2831, 2850, 3170, I.R.C.)

§ 184.124 *Changes in partnership.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, shall constitute a change in proprietorship. Likewise, the bankruptcy or adjudicated insolvency of one or more of the copartners results in a dissolution of the partnership and, consequently, a change in proprietorship. Where such a change in proprietorship of the distillery occurs, the successor must qualify in the same manner as a new proprietor of the distillery, except that the successor may adopt the plat and plans of the predecessor as provided in section 184.123 (b) (5).*

§ 184.125 *Changes in stockholders, officers, and directors of corporation.* The sale or transfer of the capital stock of a corporation operating a distillery does not constitute a change in the proprietorship of the distillery. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is any change in the officers or directors, the distiller must give notice thereof, in triplicate, to the district supervisor within 24 hours of such change. Mere changes in stockholders of corporations not constituting a change in control need not be so reported. The district supervisor must, in the case of changes in officers or directors, be furnished extracts, in triplicate, of the minutes of the meetings showing such changes.* (Secs. 2812, 3170, I.R.C.)

§ 184.126 *Reincorporation.* Where a corporation operating a distillery is reorganized and a new charter or certificate of incorporation is secured, the new corporation must qualify in the same manner as a new proprietor of the distillery, except that the new corporation may adopt the plat and plans of the predecessor as provided in section 184.123 (b) (5).*

§ 184.127 *Change in location.* Where there is a change in the location of the distillery premises, the distiller must comply with all applicable provisions of Articles V to XI, inclusive, except that in lieu of the filing of a new distiller's bond, Form 30½, the distiller may furnish a consent of surety, Form 1533, in accordance with section 184.98, extending the terms of the distiller's bond given for the former location to cover operation of the distillery at the new location.* (Sec. 2812, I.R.C.)

§ 184.128 *Changes in premises.* Where the distillery premises are to be extended or curtailed, the distiller must file with the district supervisor an amended notice, Form 27½, and an amended plat of the premises as extended or curtailed. If the plans are affected by the extension or curtailment, they must also be amended. If the distillery is within 600 feet of a rectifying plant the distiller must also file a special application, Form 1613, and plat, in accordance with Article V. The additional premises covered by an extension may not be used for dis-

tillery purposes, and the portion of the distillery premises to be excluded by a curtailment may not be used for other than distillery purposes, prior to approval of the notice, Form 27½.* (Secs. 2812, 2819, 2816, 3170, I.R.C.)

§ 184.129 *Changes in construction and use.* Where a change is to be made in the construction of a room or building not involving an extension or curtailment of the distillery premises, or where a change is to be made in the use of any portion of such premises, the distiller shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes. Upon approval of the application, the changes will be made under the supervision of a Government officer, unless they are of such a nature as, in the opinion of the district supervisor, do not require such supervision. Upon completion of the changes, the distiller must file an amended notice, Form 27½, and amended plans.* (Secs. 2812, 2816, 3170, I.R.C.)

§ 184.130 *Indemnity bond covering changes in buildings.* If buildings on the distillery premises, or on premises which have been eliminated from the distillery premises, are to be demolished or altered in such a manner as to decrease the value of the property, and a lien for taxes on spirits produced exists on such property under section 2800 (e), I.R.C., the distiller must file with the district supervisor an indemnity bond on Form 1617, in triplicate, in a penal sum equal to the decrease in the value of the property: *Provided*, That if such decrease in value is less than \$500, no indemnity bond will be required.* (Sec. 2800 (e), I.R.C.)

§ 184.131 *Appraisal.* The amount of the decrease in the value of the property subject to the Government's lien which will be caused by the demolition or alteration of buildings shall be determined by appraisal by two or more competent persons designated by the district supervisor. The appraisers shall render to the district supervisor a report, in duplicate, of their appraisal, which shall include information as to the methods employed by them in determining their valuations. The appraisal shall be at the expense of the distiller, unless made by Government officers.* (Sec. 2800 (e), I.R.C.)

§ 184.132 *Changes in equipment.* Where changes are to be made in the distilling apparatus and equipment, the distiller shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes: *Provided*, That emergency repairs may be made under the supervision of a Government officer without prior approval of the district supervisor. Where such emergency repairs are made, the distiller shall file immediately a report thereof, in triplicate, with the district supervisor. Changes covered by an approved application will also be made under the su-

pervision of a Government officer. Upon completion of any change made under his supervision, the Government officer will authorize the removal of the dismantled equipment, and the use of the new or repaired equipment, and submit a report, in triplicate, of the changes to the district supervisor.* (Secs. 2816, 3170, I.R.C.)

§ 184.133 *Indemnity bond covering removal of equipment.* If distilling apparatus or equipment, on which a lien has attached under section 2800 (e), I.R.C., for taxes on brandy produced which has not been tax-paid or withdrawn for a tax-free purpose, is to be removed from the distillery premises, the distiller must file with the district supervisor an indemnity bond on Form 1617, in triplicate, in a penal sum equal to the value of the apparatus or equipment to be removed, unless the distiller is the owner in fee of the distillery premises and the apparatus and equipment to be removed will be replaced with apparatus or equipment that will become a fixture in law of an equal or greater value than the apparatus or equipment to be removed: *Provided*, That if the new apparatus or equipment in such case is of less value than the apparatus or equipment to be removed, the indemnity bond required to be filed shall be only for the difference in value between the old and the new apparatus and equipment: *And provided further*, That if the value of the apparatus or equipment to be removed, or the difference between the value of the old apparatus or equipment to be removed and the value of the new apparatus or equipment to be substituted therefor, as the case may be, is less than \$500, no indemnity bond will be required. The value of the distilling apparatus or equipment to be removed, or the difference between the value of such apparatus or equipment and the value of the apparatus or equipment to be substituted therefor, will be determined by appraisal in the manner prescribed in section 184.131.* (Sec. 2800 (e), I.R.C.)

§ 184.134 *Amended notice and plans covering changes in equipment.* Upon completion of the changes in equipment, the distiller must file an amended notice and amended plans, except that in the case of minor changes, such as general repairs, changes in pipe lines, or the addition or removal of a tank, an amended notice and amended plans need not be filed immediately: *Provided*, That the Commissioner or district supervisor may, at any time, in his discretion, require the filing of an amended notice and amended plans covering such minor changes. Where an amended notice and amended plans are not filed immediately upon completion of minor changes in equipment, the distiller must include such changes in the next amended notice and plans filed by him.* (Secs. 2812, 2816, 3170, I.R.C.)

No. 44—4

ARTICLE XV—REQUIREMENTS GOVERNING OPERATION OF DISTILLERY UNDER ALTERNATING PROPRIETORSHIPS

§ 184.135 *Qualification.*—(a) *Where no bonded warehouse on premises.* Where it is desired to operate a fruit distillery under alternating proprietorships, and there is no internal revenue bonded warehouse on the distillery premises, the outgoing (lessor) distiller must discontinue operations and the successor (lessee) distiller must qualify as proprietor of the distillery in accordance with the provisions of section 184.123 (a) and (b), respectively, except that the outgoing distiller shall state the purpose of his notice to be "Temporary discontinuance during operation of distillery by -----"

(Successor) Thereafter, whenever the

proprietorship is to be alternated, the outgoing distiller must discontinue operations as provided herein, and the successor must comply with the following requirements:

(1) *Amended notice, Form 27½.* File with the district supervisor an amended notice on Form 27½, in triplicate, properly describing the distillery premises, stating therein the purpose to be "Resumption of operations following discontinuance by -----"

(Predecessor) giving the date of the discontinuance.

(2) *Plats and Plans.* File with the district supervisor a certificate, in triplicate, conforming to the provisions of section 184.123 (b) (5), adopting the plat and plans of the distillery, or submit new plat and plans.

(3) *Registry of stills.* Register the stills "For use" or "Not for use," as the case may be, on Form 26, in triplicate, in accordance with section 184.391.

(4) *Bond or consent of surety.* File a new distiller's bond, Form 30½, or a consent of surety, Form 1533, in triplicate, to continue in effect the distiller's bond in force at the time operations were previously suspended by the principal: *Provided*, That in lieu of filing a separate consent of surety each time operation of the distillery is resumed by the principal after suspension of operations by his predecessor, such principal may file a blanket consent of surety to cover all alternate operations by him. Such blanket consent of surety may be executed in the following form:

To continue in effect the said bond whenever operation of the distillery is resumed from time to time, pursuant to notice on Form 27½ filed by the principal, following suspension of operations by -----

(Predecessor) (or, if more than one, by -----, or ----- as the case may be).

(5) *Notice of resumption.* File with the district supervisor Form 125, "Notice of Resumption," in triplicate, in accordance with Article XXIX.

(6) *Signs.* Change the distillery sign to conform to the provisions of section 184.30.

(7) *Materials and unfinished spirits.* If distilling materials and unfinished spirits are received by transfer from the predecessor, comply with the requirements of Article XXXIII.

(b) *Where bonded warehouse on premises.* Where an internal revenue bonded warehouse is located on the premises of a fruit distillery which it is desired to operate under alternating proprietorships, the following requirements must be observed:

(1) *Discontinuance by lessor.* The original or lessor distiller must discontinue operations in accordance with the provisions of section 184.123 (a), except that additional plats will be filed as provided in subparagraph (2) hereof, and the amended notice will conform to the provisions of subparagraph (3) hereof.

(2) *Two additional plats required.* The lessor must designate the plat on file which depicts the entire fruit distillery premises, including the internal revenue bonded warehouse, as "Plat A," and file two new plats, one designated "Plat B" depicting the distillery and other portions, if any, of the premises to be leased, and the other designated "Plat C" depicting the internal revenue bonded warehouse and any other portion of the distillery premises to be retained by the lessor: *Provided*, That "Plat B" may, if desired, be filed by the lessee.

(3) *Amended notice, Form 27½.* The lessor must file with the district supervisor an amended notice, Form 27½, in triplicate, stating therein the purpose to be "Temporary discontinuance during operation of distillery by -----"

(Successor) and giving the date of the discontinuance. The curtailed premises to be retained by the lessor must be described in such amended notice and the description thereof must correspond with the depiction of the premises on "Plat C."

(4) *Qualification of lessee.* The lessee must qualify to operate the distillery in the same manner as the proprietor of a new distillery, except that he may adopt "Plat B" and the plans of the distillery filed by the lessor. The adoption of the plat and plans will be in accordance with the provisions of section 184.123 (b) (5). The lessee must also file with the district supervisor certified copies, in triplicate, of the lease.

(5) *Subsequent changes.* Thereafter, whenever the proprietorship is to be alternated, the outgoing distiller must discontinue operations as provided herein, except that (1) if the outgoing distiller is the lessee the premises depicted in "Plat B" will be described in the amended notice, and (2) if the outgoing distiller is the lessor he may adopt "Plat C" instead of filing a new plat of the retained portion of the premises; and

the successor must comply with the following requirements:

(i) *Amended notice, Form 27½.* File with the district supervisor an amended notice, Form 27½, in triplicate, properly describing the distillery premises, stating therein the purpose to be "Resumption of operations following discontinuance by -----," and giving

(Predecessor)

the date of the discontinuance. If the successor is the lessor, the description of the distillery premises will correspond with the depiction thereon on "Plat A," and if the successor is the lessee, the description of the distillery premises must correspond with the depiction thereof on "Plat B."

(ii) *Adoption of plat and plans.* File with the district supervisor a certificate, in triplicate, conforming to the provisions of section 184.123 (b) (5), adopting the plat and plans of the distillery, or submit new plat and plans. If the distiller resuming operations is the lessor, he will adopt "Plat A"; and if he is the lessee, he will adopt "Plat B."

(iii) *Other requirements.* Register stills, file bond or consent of surety and notice of resumption, change the distillery sign, and execute transfer agreement and make appropriate entries in the distillery records if distilling materials or unfinished spirits are received by transfer from the predecessor, as provided in paragraph (a) (3), (4), (5), (6), and (7).

* (Secs. 2812, 2814, 2841, 2878, 2810, 2816, 2831, 2850, 3170, I.R.C.)

ARTICLE XVI—REQUIREMENTS GOVERNING ALTERNATE OPERATIONS AS REGISTERED DISTILLERY OR INDUSTRIAL ALCOHOL PLANT

§ 184.136 *Qualification required.* Where it is desired to operate the fruit distillery as a registered distillery or an industrial alcohol plant, operations as a fruit distillery must be suspended as hereinafter provided, and the proprietor must qualify under the regulations governing the production of distilled spirits other than alcohol if he desires to operate a registered distillery, and under the regulations governing the production of industrial alcohol if he wishes to operate an industrial alcohol plant.*

§ 184.137 *Approval required before resumption.* The qualifying documents required to be filed by the fruit distiller when operations of the fruit distillery are to be resumed, following the suspension of operations as a registered distillery or an industrial alcohol plant, must be approved before actual resumption of operations.*

§ 184.138 *Where no bonded warehouse on premises—(a) Suspension.* Where no internal revenue bonded warehouse is located on the fruit distillery premises, the fruit distiller must, upon suspension of the fruit distillery preparatory to operation thereof as a registered distillery or industrial alcohol plant, comply with the following requirements:

(1) *Amended notice, Form 27½.* File with the district supervisor an amended notice, Form 27½, in triplicate, stating therein the purpose of the notice to be "Temporary discontinuance in order that the premises may be operated as a registered distillery" (or industrial alcohol plant, as the case may be), and the date of the discontinuance.

(2) *Registry of stills.* Register the stills "Not for use" on Form 26, in triplicate, in accordance with section 184.391.

(3) *Notice of suspension.* File with the district supervisor Form 124, "Notice of Suspension," in triplicate, in accordance with Article XXIX.

(4) *Materials and heads and tails.* If distilling materials are transferred to the successor, or if heads and tails are to be retained on the premises pending resumption of operations as a fruit distiller, comply with the requirements of Article XXXII.

(b) *Resumption.* Where operation of the plant as a registered distillery or an industrial alcohol plant has been suspended, and operation thereof as a fruit distillery is to be resumed, the fruit distiller must comply with the following requirements:

(1) *Amended notice, Form 27½.* File with the district supervisor an amended notice on Form 27½, in triplicate, stating therein the purpose to be "Resumption of operations following discontinuance as a registered distillery" (or industrial alcohol plant, as the case may be), and giving the date of the discontinuance.

(2) *Adoption of plat and plans.* File with the district supervisor a certificate, in triplicate, conforming to the provisions of section 184.123 (b) (5), adopting the plat and plans of the fruit distillery, or submit new plat and plans.

(3) *Registry of stills.* Register the stills "For use" or "Not for use," as the case may be, on Form 26, in triplicate, in accordance with section 184.391.

(4) *Bond or consent of surety.* File a new fruit distiller's bond, Form 30½, or a consent of surety, Form 1533, in triplicate, to continue in effect the fruit distiller's bond in force at the time operation of the plant as a fruit distillery was suspended: *Provided,* That in lieu of filing a separate consent of surety each time operation of the plant as a fruit distillery is resumed, after suspension of operations as a registered distillery or industrial alcohol plant, a blanket consent of surety may be filed to cover all alternate operations of the plant as a fruit distillery. Such blanket consent of surety may be executed in the following form:

To continue in effect the said bond whenever operation as a fruit distillery is resumed from time to time, pursuant to notice on Form 27½ filed by the principal, following suspension of operations as a registered distillery (or industrial alcohol plant, as the case may be).

(5) *Notice of resumption.* File with the district supervisor Form 125, "No-

tice of Resumption," in triplicate, in accordance with Article XXIX.

(6) *Materials.* If distilling materials are received by transfer from the predecessor, comply with the requirements of Article XXXII.

* (Secs. 2812, 2814, 2841, 2810, 2816, 2850, 3170, I.R.C.)

§ 184.139 *Where operation of warehouse on premises is continued—(a) Suspension.* Where an internal revenue bonded warehouse is located on the fruit distillery premises and the fruit distiller desires to continue to operate the warehouse on such premises while the distillery is operated alternately as a fruit distillery and as a registered distillery or industrial alcohol plant, he must, upon suspension of the fruit distillery, comply with the provisions of section 184.138 (a) (2), (3), and (4), and, in addition thereto, the following requirements:

(1) *Two plats required.* Designate the plat on file which depicts the entire fruit distillery premises, including the internal revenue bonded warehouse, as "Plat A," and file a new plat, which will be designated "Plat B," depicting the internal revenue bonded warehouse and any other portion of the distillery premises not to be operated as a part of the registered distillery or industrial alcohol plant.

(2) *Amended notice, Form 27½.* File with the district supervisor an amended notice, Form 27½, in triplicate, in accordance with section 184.138 (a) (1). The internal revenue bonded warehouse and any other portion of the distillery premises not to be operated as a part of the registered distillery or industrial alcohol plant must be described in such amended notice, and the description thereof must correspond with the depiction of such premises on "Plat B."

(b) *Resumption.* Where operation of the plant as a registered distillery or industrial alcohol plant has been suspended, and operation thereof as a fruit distillery is to be resumed, the fruit distiller must comply with the provisions of section 184.138 (b) (3), (5), and (6), and, in addition thereto, the following requirements:

(1) *Amended notice, Form 27½.* File with the district supervisor an amended notice, Form 27½, in triplicate, in accordance with section 184.138 (b) (1). The fruit distillery premises must be described (by proper reference to prior notice, if desired) in such amended notice to correspond with the depiction thereof on "Plat A," provided the depiction of the premises on such plat is correct.

(2) *Bond or consent of surety.* File a new fruit distiller's bond, Form 30½, or a consent of surety, Form 1533, in triplicate, to continue in effect the fruit distiller's bond in force at the time operation of the plant as a fruit distillery was suspended. The consent of surety in such case may be in blanket form, in

accordance with the provisions of section 184.138 (b) (4).

(3) *Adoption of plat and plans.* File with the district supervisor a certificate, in triplicate, conforming to the provisions of section 184.123 (b) (5), adopting "Plat A" and the plans of the fruit distillery, or submit new plat and plans." (Secs. 2812, 2814, 2841, 2810, 2816, 2850, 3170, I.R.C.)

§ 184.140 *Where bonded warehouse is discontinued or eliminated from fruit distillery premises—(a) Suspension.* Where an internal revenue bonded warehouse is located on the fruit distillery premises and the fruit distiller desires to discontinue the operation of such warehouse or to eliminate the same from the fruit distillery premises, he must, upon suspension of the fruit distillery preparatory to operation of the plant as a registered distillery or industrial alcohol plant, comply with the provisions of section 184.138 (a), and, in addition thereto, the following requirements:

(1) *Discontinuance of warehouse.* If the internal revenue bonded warehouse is to be discontinued, all distilled spirits stored therein must be lawfully removed therefrom and the warehouse discontinued in accordance with the regulations governing the warehousing of distilled spirits.

(2) *Elimination of warehouse from premises.* If the internal revenue bonded warehouse is to be eliminated from the fruit distillery premises and such warehouse is not to be located on the premises of the registered distillery when the plant is operated as such, the proprietor must file an amended application, Form 27-D, and plat of the warehouse premises, and otherwise comply with the regulations governing the warehousing of distilled spirits.

(3) *Operation of warehouse on registered distillery premises.* If the internal revenue bonded warehouse is to be eliminated from the fruit distillery premises and is to be situated on the premises of the registered distillery while the plant is operated as such by the same proprietor, the fruit distiller must request termination of the fruit distiller's bond, Form 30½, effective as of a date prior to the effective date of the registered distiller's bond on Form 30, in the event the fruit distiller's bond is supported by consent of surety on the transportation and warehousing bond, Form 1571, and it is desired likewise to support the registered distiller's bond, Form 30.

(b) *Resumption.* Where operation of the plant as a registered distillery or industrial alcohol plant has been suspended, and operation thereof is to be resumed as a fruit distillery, the fruit distiller must comply with the provisions of section 184.138 (b) (3), (5), and (6), and, in addition thereto, the following requirements:

(1) *Amended notice, Form 27½.* File an amended notice, Form 27½, in triplicate, describing (by proper reference

to prior notice, if desired) the fruit distillery premises as such premises are to exist, stating therein the purpose to be "Resumption of operations following discontinuance as a registered distillery (or industrial alcohol plant)," and giving the date of discontinuance.

(2) *New plat.* File a new plat, in triplicate, conforming to the requirements of Article XIII, unless the warehouse is to be again located on the fruit distillery premises, in which event the distiller may adopt the plat of the fruit distillery premises previously filed. If the warehouse has been eliminated from the fruit distillery premises, the premises as thus curtailed will be depicted on the new plat. If the warehouse has been discontinued and the buildings which constituted the same are to be retained on the fruit distillery premises and used for other than warehouse purposes, the new plat will show the designated use of the former warehouse buildings and depict the distillery premises as thus changed.

(3) *Bond or consent of surety.* File a new fruit distiller's bond on Form 30½, or a consent of surety, Form 1533, in triplicate, to continue in effect the fruit distiller's bond in force at the time operation of the plant as a fruit distillery was suspended, unless such bond was terminated in accordance with paragraph (a) (3). The consent of surety in such case may be in blanket form, in accordance with the provisions of section 184.138 (b) (4). If the warehouse is to be again located on the fruit distillery premises, the fruit distiller's bond may, as provided in section 184.84, be supported by consent of surety on the transportation and warehousing bond, Form 1571; otherwise, the distiller's bond must be given with surety or collateral security." (Secs. 2812, 2814, 2841, 2810, 2816, 2850, 3170, I.R.C.)

ARTICLE XVII—ACTION BY DISTRICT SUPERVISOR

Original Establishment

§ 184.141 *Special application, Form 1613.* Where a special application, Form 1613, for permission to operate a fruit distillery within 600 feet of a rectifying plant is submitted by the distiller, together with the required plat, and such special application and plat conform to the requirements of these regulations, the district supervisor will cause an inspection to be made to determine whether the proposed operation of the distillery within 600 feet of the rectifying plant may be permitted without jeopardy to the revenue. The inspector will ascertain whether the application and plat accurately depict the relative location of the two premises and all pipe lines and other connections, if any, between such premises, and all streets, roads, and drive-ways connecting the two premises. The inspector will also, in the course of his inspection, observe the surroundings and any conditions which might endanger the revenue, and will describe the same in his report. If the district supervisor

finds upon examination of the inspection report that the distillery may be operated at the designated location without danger to the revenue, he will note his recommendation for approval on all copies of the special application and his approval on all copies of the accompanying plat, and will forward all copies of the special application and the original copy of the plat, together with a copy of the inspection report, to the Commissioner for final action. If the district supervisor should be of the opinion that operation of the distillery at the designated location will endanger the revenue, he will note his recommendation for disapproval on the special application and forward all copies thereof and the original copy of the plat, together with a copy of the inspection report, to the Commissioner. Where the special application is recommended for disapproval, the district supervisor will furnish the Commissioner full information respecting the reasons therefor. When final action has been taken on the special application, the district supervisor will dispose of the approved or disapproved documents returned by the Commissioner, as provided in section 184.150." (Secs. 2819, 3170, I.R.C.)

§ 184.142 *Examination of other qualifying documents.* Upon receipt of notice, plat, plans, bond, and other documents required by these regulations of persons intending to qualify as fruit distillers, the district supervisor will examine the same to determine whether they have been properly executed, and whether they reflect compliance with the requirements of the law and regulations. The district supervisor will examine the original of the Federal Alcohol Administration permit to determine that the photostatic copies thereof are authentic. Where any required document has not been filed, or where errors or discrepancies are found in those filed, or where the documents filed do not reflect compliance with these regulations, action thereon will be held in abeyance until the omission, or error or discrepancy, has been rectified, and there has been full compliance with all requirements.*

§ 184.143 *Inspection of premises.* When the required documents have been filed in proper form, the district supervisor will assign an inspector to examine the premises, buildings, apparatus, and equipment, and determine whether they conform with the description thereof in the notice, plat, and plans, and whether the construction and measures of protection afforded meet the requirements of the law and regulations. The inspector will observe particularly the manner in which the rooms or buildings on the bonded premises are separated from each other and from other premises, means of communication, ingress and egress, adequacy of protection afforded windows, doors, and other openings, construction of apparatus and equipment, and the suitability of the

Government office. Where the inspection discloses minor irregularities in the qualifying documents or in the construction, the inspector will, at the time of their discovery, direct the attention of the distiller to the same in order that the distiller may correct the defects before completion of the inspection. Upon completion of the inspection, a report thereof will be submitted to the district supervisor.*

§ 184.144 *Report of inspection.* The report of the inspection shall describe separately all irregularities and discrepancies found during the course of the inspection, and shall include a complete statement describing all unusual or special conditions. Where irregularities are corrected during the inspection, the report will indicate the corrections so made. The report need not describe in detail each description as set forth in the notice, plat, and plans. The description of buildings and equipment in the report should be general and brief. However, construction, equipment, signs, etc., which are not in conformity with law and regulations, will be completely described. If there are any pipe lines or other connections or openings between the bonded premises and other premises, the same shall be described in detail. There shall be further embodied in the report a statement as to whether or not another business is being conducted, or is intended to be conducted, on the bonded premises or in buildings thereon.*

§ 184.145 *Inaccurate documents.* Where the district supervisor's examination, or the inspector's report, discloses discrepancies in the qualifying documents the inaccurate or incomplete documents will be returned to the proprietor for correction. A record will be kept of all bonds so returned.*

§ 184.146 *Defective construction.* Where it is found that the construction of the distillery or its equipment does not conform to the requirements of the law and regulations, the district supervisor will inform the proprietor concerning the defects, and further action will be held in abeyance pending correction thereof.*

§ 184.147 *Law violation record.* Before recommending for approval any bond or consent of surety given by any individual, firm, partnership, corporation, or association, in respect to the business of a fruit distiller, the district supervisor will cause such inquiry or investigation as may be deemed necessary to ascertain whether such individual, firm, partnership, corporation, or association, or any person owning, controlling, or actively participating in the management of the business, has been convicted of, or has compromised, an offense of the nature specified in section 184.101. Where record is found of the conviction or compromise of such an offense, the district supervisor will forward a full report thereof, with his recommendation,

to the Commissioner for consideration, before recommending approval or disapproval of the bond. Upon receipt of advice from the Commissioner, the district supervisor will recommend approval or disapproval of the bond in accordance with sections 184.148 and 184.149.* (Sec. 2815 (d), I.R.C.)

§ 184.148 *Approval of qualifying documents.* If the district supervisor finds, upon examination of the inspection report, that the person seeking to qualify as a fruit distiller has complied in all respects with the requirements of law and these regulations, and if the distiller's bond (Form 30½) may properly be approved under section 184.147, he will note his recommendation for approval on all copies of the bond and notice, and his approval on all copies of the plat and plans, and will forward all copies of the bond and notice and the original copy of the plat, plan, and other qualifying documents, together with a copy of all inspection reports, to the Commissioner for final action.*

§ 184.149 *Disapproval of qualifying documents.* If the district supervisor finds that the applicant has not complied in all respects with the requirements of the law and regulations, or that the situation of the distillery is such as would enable the distiller to defraud the United States, or if the bond should be disapproved under section 184.147, he will note his recommendation for disapproval on the bond, and will forward to the Commissioner for final action such copies of the qualifying documents as are required to be so forwarded by the preceding section in the case of recommendation for approval, together with a copy of all inspection reports. Where a bond is recommended for disapproval, the district supervisor will furnish the Commissioner with a full statement of the reasons therefor.*

§ 184.150 *Disposition of qualifying documents.* Where the distiller's bond (Form 30½), notice (Form 27½), and special application (Form 1613), if any, are approved by the Commissioner, the district supervisor will, upon receipt of approved copies of such documents from the Commissioner, as provided in Article XVIII, forward one copy of the bond, special application, if any, notice, plat, plans, and other qualifying documents (except copy of permit) to the distiller and will retain one copy of such qualifying documents for the file of such distiller. The extra copy of the special application (Form 1613), if any, received from the Commissioner will be placed by the district supervisor in the file of the rectifier. If the bond and special application, if any, are disapproved, the district supervisor will, upon receipt from the Commissioner of the disapproved copies of such documents and other qualifying documents submitted therewith, return all copies of the qualifying documents to the proprietor, with advice as to the reasons for disapproval.*

Changes Subsequent to Establishment

§ 184.151 *Procedure applicable.* The provisions of this article respecting action required of district supervisors in connection with establishment of distillery will be followed, to extent applicable, where there is a change in name, proprietorship, location, premises, construction, apparatus and equipment, or type of plant, or where operations are permanently discontinued: *Provided*, That where there is a change in name, or operations are to be resumed under a previously approved trade name, or by a previously approved former proprietor in the case of operations under alternating proprietorships, the district supervisor may by letter authorize commencement of operations prior to Commissioner's review of qualifying documents.*

§ 184.152 *Indemnity bond, Form 1617.* Where changes to be made in distillery buildings or former distillery buildings or distillery equipment are such as to require the filing of an indemnity bond on Form 1617, as provided in sections 184.130 and 184.133, the district supervisor will, upon receipt of a satisfactory bond, note his recommendation for approval thereon and forward all copies thereof to the Commissioner accompanied by the original of the report submitted by the designated appraisers. If the bond is approved by the Commissioner, the district supervisor will, upon receipt of the approved copies thereof from the Commissioner, forward one copy to the distiller and retain one copy. (See distilled spirits regulations for cancellation procedure).*

§ 184.153 *Applications and reports covering changes.* Where an application covering changes in the distilling apparatus or equipment, or in the construction or use of a room or building, is approved by the district supervisor, he will retain one copy of the application and forward one copy to the distiller and one copy to the Commissioner, and, when reports covering changes in apparatus and equipment are received from Government officers in accordance with section 184.132, he will retain one copy and promptly forward one copy to the Commissioner. Similar disposition will be made of reports received from the distiller covering emergency repairs of distilling apparatus and equipment. Where changes in buildings, apparatus, or equipment are such as to require the filing of an indemnity bond, the district supervisor will not approve the application until such bond has been approved by the Commissioner.*

Annual Notices and Bonds, Consents of Surety, and Additional and Superseding Bonds

§ 184.154 *Procedure applicable.* The procedure prescribed herein for the approval and disapproval of notices and bonds submitted in connection with the establishment of fruit distilleries will, to the extent applicable, govern the ap-

proval and disapproval of annual notices and bonds, consents of surety, and additional and superseding bonds.*

ARTICLE XVIII—ACTION BY COMMISSIONER Original Establishment

§ 184.155 *Special application, Form 1613.* Upon receipt of special application, Form 1613, from the district supervisor, with his recommendation for approval or disapproval noted thereon, the Commissioner will review the same in connection with the accompanying plat and inspection report. If the application is approved by the Commissioner, he will note his approval on all copies thereof, retain the plat and two copies of the application and return three copies of the application to the district supervisor. Approval of the special application pertains to the location of the distillery only, and does not authorize the operation thereof. The distillery may not be operated until the distiller's bond and other qualifying documents required by law and these regulations have been filed and approved. If the special application is disapproved, the Commissioner will note his disapproval thereon and will return all copies thereof to the district supervisor, accompanied by the plat submitted therewith and a statement of the reasons for disapproval of the special application.* (Secs. 2819, 3170, I.R.C.)

§ 184.156 *Other qualifying documents.* The Commissioner will also review the notice, plat, plans, distiller's bond (Form 30½), and other qualifying documents upon their receipt from the district supervisor. If the Commissioner approves the distillery construction and equipment, and the notice, plat, plans, bond, and other qualifying documents, he will assign a registry number to the distillery in accordance with section 184.157, note his approval on all copies of the distiller's bond and notice, retain one copy of the bond and notice, and all copies of the other qualifying documents, and will return two copies of the approved bond and notice to the district supervisor with advice as to his action on the qualifying documents. If the Commissioner disapproves the bond, he will note his disapproval thereon and will return all copies thereof to the district supervisor, accompanied by the other qualifying documents submitted therewith, and a statement of the reasons for disapproval of the bond.* (Secs. 2814, 3170, I.R.C.)

§ 184.157 *Registry numbers.* Fruit distilleries will be numbered serially in the order of their establishment. A separate series will be used for each State. Registry numbers heretofore assigned will be retained, and new distilleries will be assigned numbers in sequence thereto. Registry numbers previously assigned to discontinued distilleries will be not reassigned to other distilleries. The same registry number will be continued whenever there is a change of proprietorship.*

Changes Subsequent to Original Establishment

§ 184.158 *Procedure applicable.* The foregoing provisions of this article respecting the action of the Commissioner in connection with the establishment of fruit distilleries will be followed, to the extent applicable, where there is a change in the name, or in the firm name, trade name or style, or in the proprietorship, location, premises, construction, apparatus and equipment of the distillery, or in the type of plant.*

ARTICLE XIX—TERMINATION OF BONDS

§ 184.159 *Termination of distiller's bond.* The fruit distiller's bond (Form 30½) is an annual bond and, therefore, upon expiration of the period for which it is given automatically terminates as to spirits produced subsequent to such period. Such bonds may be terminated as to future production prior to expiration of the period for which given, (1) pursuant to application by the surety as provided in section 184.161, or (2) upon approval of a superseding bond or discontinuance of business by the principal. Application for notice of termination of a fruit distiller's bond upon approval of a superseding bond or discontinuance of the business must be filed in duplicate with the district supervisor.* (Sec. 2814, I.R.C.)

§ 184.160 *Termination of export bonds.* Bonds (Forms 547, 548, 657, and 658) given to cover the exportation, or the transportation for export, of spirits of not less than 180 degrees of proof, withdrawn from the distillery in tank cars for such purpose as provided in Article XXV, will be terminated in accordance with the provisions set forth in the warehousing regulations for the termination of such bonds when given to cover the exportation, or the transportation for export, of spirits withdrawn from internal revenue bonded warehouses.* (Secs. 2885, 2886, 2888, 3170, I.R.C.)

§ 184.161 *Application of surety for relief from bond.* A surety on any bond required by these regulations may at any time in writing notify the principal and the district supervisor in whose office the bond is on file that he desires after a date named, which shall be at least 60 days after the date of the notification, to be relieved of liability under said bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and the other two copies to the district supervisor, who will retain one copy and transmit the remaining copy to the Commissioner. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved (1) in the case of a fruit distiller's bond (Form 30½), from liability for distilled spirits produced wholly subsequent to the date named in the notice, and (2) in the case of export

bonds (Forms 547, 548, 657, and 658) from liability for distilled spirits withdrawn for export wholly subsequent to said date. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a verified statement that such power of attorney is on file with the Department. The surety must also file with the district supervisor an acknowledgment or other proof of service of such notice on the principal.*

§ 184.162 *Action on application for notice of termination of distiller's bond.* When an application for notice of termination of a fruit distiller's bond as to future production is filed with the district supervisor in a case where a superseding bond has been approved, or the principal has discontinued business, as provided in section 184.159, the district supervisor will, before forwarding the application to the Commissioner, make a complete examination of records to determine whether there is any liability then due and payable outstanding against the bond. He will also ascertain from the collector of internal revenue whether there are any outstanding, unpaid assessments or demands for taxes on spirits produced under the bond. If it is found that violations of law or regulations occurred during the period covered by the bond and that penalties incurred or fines imposed have not been paid, or that outstanding assessments, or demands for payment of taxes, chargeable against the bond, have not been paid or otherwise settled, the district supervisor will recommend disapproval of the application, unless the liability is settled. The district supervisor will retain one copy of the application and forward one copy to the Commissioner with his recommendation. The district supervisor will not issue notice of termination of any fruit distiller's bond until he has been notified of the Commissioner's approval of the application therefor.*

§ 184.163 *Notices, Forms 1490 and 1491.* Upon receipt of advice from the Commissioner of his approval of an application for notice of termination of a fruit distiller's bond (Form 30½) as to liability for future production, the district supervisor will execute Form 1490, "Notice of Bond Termination," where a superseding bond has been approved, or Form 1491, "Notification of Release of Bond," where the principal has discontinued business, in quadruplicate (in quintuplicate if there are two sureties), and will forward the original to the Commissioner, one copy to each obligor on the bond, and retain one copy on file with the bond to which it relates.*

§ 184.164 *Release of collateral.* The release of collateral pledged and deposited with the United States to support bonds required by these regulations will be in accordance with the provisions of Department Circular No. 154, revised (31

CFR, Part 225), subject to the conditions governing the issuance of notices on Forms 1490 and 1491 of the termination of such bonds. Collateral pledged and deposited to support a fruit distiller's bond (Form 30½) will not be released by the district supervisor, unless the Commissioner has authorized such action. The release of the security in the case of such bond will not be authorized until all spirits produced while the bond was in force and effect have been tax-paid or removed for a lawful tax-free purpose. Accordingly, collateral may not be released while spirits produced under the bond remain in any internal revenue bonded warehouse. When an application for release of collateral deposited in support of a fruit distiller's bond (Form 30½) is received by the district supervisor, he will determine whether all spirits produced at the distillery while the bond was in effect have been withdrawn from warehouse and all outstanding liabilities settled, and will forward the application to the Commissioner with his recommendation. Collateral pledged and deposited to support direct export bonds, or transportation for export bonds, may be released by the district supervisor without prior authorization of the Commissioner. The collateral in such cases will ordinarily be released upon issuance of notice of release of the bond, Form 1491.* (Sec. 1126, 44 Stat. 122; 6 U.S.C. 15)

ARTICLE XX—MANUFACTURE OF BRANDY

Kinds of Materials and Brandies

§ 184.165 *Kinds of materials.* Distillers operating under these regulations must manufacture brandy exclusively from apples, peaches, grapes, oranges, pears, pineapples, apricots, berries, plums, pawpaws, persimmons, prunes, figs, cherries, dates, or citrus fruits (except lemons and limes), or from residues or products of such fruits and berries, or from grape wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, plum wine, prune wine, pear wine, or apple wine, in the manufacture of which artificial sweetening may have been used, or from the fruit pomace residuum of such grape wine, or from grape cheese where not more than 500 gallons of a sugar solution made from cane, beet, starch, or corn sugar, 95 percent pure, and having a saccharine strength of not to exceed 10 percent, is added to not less than 500 gallons (10 barrels) of such cheese.* (Sec. 2825, I.R.C.)

§ 184.166 *Kinds of brandies for fortification of wine.* The kinds of brandies that may be produced for the fortification of wine are those made exclusively from grapes, citrus fruits (except lemons and limes), peaches, cherries, berries, apricots, prunes, plums, pears, or apples, or from the products or the residues of such fruits and berries, or from grape wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or

apple wine, in the manufacture of which artificial sweetening may have been used under the limitations prescribed in Article XVI of Regulations No. 7, "Relative to the Production, Fortification, Tax-Payment, Etc., of Wine," approved October 6, 1937 (26 CFR, Part 178), or the fruit pomace residuum of such grape wine. Brandy may not be produced from grape cheese and a sugar solution for the fortification of wine.* (Secs. 2825, 3032, I.R.C.)

§ 184.167 *Artificial coloring.* Brandies produced in accordance with the provisions of section 184.166 may be used for the fortification of wine, notwithstanding that they may have been artificially colored with burnt sugar or caramel under the limitations prescribed in Article XXII.* (Sec. 3036, I.R.C.)

Commencement of Operations

§ 184.168 *Notice, Form 125.* Before commencing operations at the distillery, the distiller shall file with the district supervisor notice on Form 125, in triplicate, specifying the date on which he desires to commence operations. This notice must be filed in time to enable the district supervisor to assign a storekeeper-gauger to apply the required locks and seals, or, in the case of a previously operated distillery, to remove Government locks from the furnace doors of the stills or from valves controlling the flow of steam or fuel to the stills, and to connect the machinery, and, if deemed necessary, to supervise operations. If the distiller's bond, Form 30½, has been approved and the storekeeper-gauger has found the plant and equipment in proper condition, the distiller may commence operations at the time specified in the notice.* (Secs. 2850, 3170, I.R.C.)

§ 184.169 *Assignment of storekeeper-gaugers.* The constant presence of storekeeper-gaugers at fruit distilleries will not be required. The district supervisor may, however, where the extent of operations or other circumstances warrant, assign one or more storekeeper-gaugers to constant duty at such distilleries. Where new distilleries are established, storekeeper-gaugers should be assigned to constant duty thereat for a limited period. Ordinarily, storekeeper-gaugers will be assigned to visit fruit distilleries at intervals for the purpose of gauging and supervising the withdrawal of brandy. At distilleries where operations are not such as to require the daily attendance of a storekeeper-gauger, the district supervisor will assign an officer to visit the distillery not more often than twice a month to gauge the spirits and supervise the redistillation of singlings: *Provided*, That the district supervisor may assign an officer to visit the distillery at more frequent intervals for such purposes where the location of the distillery is such that he can do so without undue expense to the Government, or where the quantity of brandy produced is such as to make the retention of 15 days' production in the receiving and singlings

tanks inadvisable. As provided in section 184.49, the receiving and singlings tanks shall be of sufficient capacity to permit storekeeper-gaugers to be so assigned. When notices of commencement of operations are received, the district supervisor will assign storekeeper-gaugers in time to prevent unnecessary delays to distillers.* (Secs. 3042, 3170, I.R.C.)

§ 184.170 *Examination of distillery.* Upon arrival at a distillery intending to commence operations, storekeeper-gaugers will, prior to the actual commencement of operations, examine the distillery, the apparatus and equipment, the receiving tanks, etc., and determine that all valves, flanges, and other connections which would afford access to spirits are properly equipped for locking or are brazed, welded, or otherwise secured, and that all doors and other openings in the receiving and brandy deposit rooms, if any, are protected in the manner prescribed by these regulations. The storekeeper-gauger will apply Government locks wherever the same are required, and will complete Form 125 in triplicate, deliver one copy to the distiller, and forward the original and one copy to the district supervisor. The district supervisor will retain one copy and forward the original to the Commissioner.*

Distilling Materials

§ 184.171 *Weighing materials received.* Distillers will weigh, or, in the case of liquids, weigh or measure, all materials received on the distillery premises for use in the production of brandy. Where wine is received by pipe line, or in tanks, tank trucks, or tank cars, the material must be run into a measuring tank, measured as to quantity and tested as to alcoholic content, except that where the wine used as distilling material is received from a winery operated by the distiller on contiguous premises, and such wine is measured and tested in distilling material measuring tanks installed on the winery premises, it need not be again measured and tested on the distillery premises if it is to be immediately distilled. In such case, the wine must be conveyed by pipe line direct from the measuring tanks on the winery premises to the chargers of the stills, or to sumps from which it will be immediately pumped into the chargers. The distilling material measuring tanks may, as provided in section 184.26, be located on such contiguous winery premises where all distilling material used is procured therefrom. Any properly calibrated tank on the winery premises may be used as a distilling material measuring tank.* (Sec. 2841, I.R.C.)

§ 184.172 *Remeasurement of wine.* Where wine is not to be distilled immediately upon receipt, it may be transferred to distilling material storage tanks, but when used it must be again tested as to alcoholic content and, unless the quantity used is accurately measured by the chargers of the stills, it must be transferred to a measuring tank and the quantity correctly determined.* (Sec. 2841, I.R.C.)

§ 184.173 *Record of materials received.* The distiller shall enter all materials received on the distillery premises for the production of brandy on Form 15, "Monthly Return of Fruit Distiller." Where wine is received, the alcoholic content thereof will also be entered on the form. If champagne or other sparkling wine, or artificially carbonated wine, is received for use as distilling material, the entry of receipt will include information as to the kind of wine.* (Sec. 2841, I.R.C.)

§ 184.174 *Addition of water.* The distiller may add as much water as he may desire to wine for the purpose of economical distillation. Water must not be added to wine received, prior to determination of the alcoholic content. Where water is added to wine intended for use as distilling material after it is transferred to distillery measuring tanks located on contiguous winery premises operated by the distiller, the quantity and alcoholic content of such wine will be determined by the distiller after the addition of the water and so entered on Form 15. Unless the attenuated material is immediately distilled, it must be again tested as to alcoholic strength before distillation, as hereinafter provided.* (Sec. 2841, I.R.C.)

§ 184.175 *Non-fermentable materials.* No non-fermentable materials may be added to the wine or other distilling material for the purpose of providing yeast food, or for inhibiting the action of wild yeast or bacteria, or for any other purpose, unless the use of such materials is covered by the statement of process, as provided in section 184.79. No chemicals or other materials, such as essences, flavors, coloring matter, etc., which are volatile and would remain incorporated in the brandy when the manufacture thereof is complete may be added to the wine or other distilling material, or to the spirits, at any stage of production, except as otherwise provided in these regulations.* (Sec. 3254 (g), I.R.C.)

§ 184.176 *Materials crushed for fermenting.* The distiller will weigh all materials crushed for fermenting, and will enter the same on Form 15. The quantity of fermented material produced will also be determined and entered on the form.* (Sec. 2841, I.R.C.)

§ 184.177 *Sweetened grape cheese.* Where grape cheese is sweetened for fermentation as distilling material the limitations set forth in section 184.165 must be observed. If it is desired to add water as well as sugar solution to the grape cheese, the sugar solution must be added first, as the quantity of sugar solution which may be used is limited in proportion to the quantity of cheese and not the quantity of cheese and water. The grape cheese may be sweetened once only. The quantity of sugar received, and the quantity of sugar and sugar solution used, will be reported on Form 15.* (Secs. 2841, 2825, I.R.C.)

§ 184.178 *Verification of quantity of alcoholic content of materials received.* Where a storekeeper-gauger is assigned to the distillery, he will from time to time personally verify the accuracy of the distiller's determination of the quantity and alcoholic content of wine received for use as distilling material, and the weight or quantity of other materials received and used for producing distilling material. Where no officer is in daily attendance at the distillery, the district supervisor will cause the accuracy of the distiller's entries on Form 15 to be verified by Government officers from time to time.*

§ 184.179 *Distilling material tested and measured before use.* The distiller will provide an approved ebulliometer, ebullioscope, small still, or other suitable instrument for determining the alcoholic content of distilling material. The following ebullimeters have been approved by the Commissioner for such use: Salleron-Dujardin, Juerst, Lefco, Braun, E. B. Torino (with shield), "TAG" (with shield), Malligand Type (with shield), L'Ebullimeter Levesque (with shield), and Arnaldo-Sala (with shield). The E. B. Torino, "TAG," Malligand Type, L'Ebullimeter Levesque, and Arnaldo-Sala have been approved subject to the condition that they will be used in connection with a shield to protect them from drafts or air currents. The Commissioner may authorize the use of other equally accurate instruments for determining the alcoholic content of distilling material. Such instruments shall be made available for use by Government officers for verifying the distiller's tests, as hereinafter required. District supervisors will cause the accuracy of such instruments in use at distilleries to be checked from time to time. When using such instruments distillers and Government officers must follow closely the instructions furnished therewith, in order that accurate determinations may be made. Instructions relative to the use of small stills (or wine sets) and the Salleron-Dujardin, Juerst, and Lefco ebullimeters are also set forth in Part Three of Regulations No. 7, approved October 6, 1937 (26 CFR, Part 178). The distiller shall determine the alcoholic content of each lot of distilling material by means of such an approved ebulliometer or other instrument, immediately prior to distillation, and shall at such time also determine accurately, by means of the distilling material measuring tanks, the number of gallons of distilling material to be distilled. The kind, quantity, and alcoholic content of the material distilled will be entered by the distiller on Form 15. The distiller will also compute and enter on Form 15 the calculated yield for each lot of material distilled.* (Secs. 2808, 2841, I.R.C.)

§ 184.180 *Verification of distiller's tests.* Where a storekeeper-gauger is on duty at the distillery, he will verify the distiller's tests of the distilling material and will

see that the proper quantity of such material and the correct percentage of alcohol contained therein are entered on Form 15. Where no officer is in daily attendance at the distillery, the district supervisor will cause such tests of the distilling material to be made from time to time by Government officers as may be necessary to insure accurate reporting of the item.*

§ 184.181 *Qualification prerequisite to operation.* No wine may be received or materials fermented or brandy produced on the distillery premises until proper bond and other required qualifying documents have been filed and approved.* (Sec. 2832, I.R.C.)

Distillation

§ 184.182 *Continuous process required.* The process of distillation employed must be such that the spirits will pass through continuous, closed stills, pipes, and vessels from the time the vapors rise in the first still until the finished spirits are deposited in locked receiving tanks provided for that purpose. The distiller may, in the course of manufacture, carry his product through as many distilling operations as he may desire, provided the process is closed and continuous. Distilling processes are deemed to be continuous where the spirits are carried through the various steps from the beer still to the receiving tanks as expeditiously as normal, efficient plant operation will permit in the manufacture of a finished product of standard quality. The collection of high and low wines (heads and tails) for the purpose of redistillation is not deemed to be a break in the continuity of the distilling process, but such spirits, when so collected, should be redistilled promptly when a sufficient quantity has been accumulated to permit efficient redistillation. Where spirits are percolated through oak chips or otherwise treated before deposit in the receiving tanks, the retention of the spirits in tanks temporarily, pending such treatment, is permissible, but no larger quantities of spirits may be so held than are necessary for operation of the percolators. The distilling process is held to be completed when the spirits are deposited in the receiving tanks.* (Sec. 3254 (g), I.R.C.)

§ 184.183 *Continuous distillation.* Where singlings are redistilled in a closed, locked still, as defined in section 184.47, they may be conveyed directly through closed pipes from the first still to the redistilling unit or they may be run into singlings tanks and thence to the redistilling unit. When so handled, all openings in the redistilling unit through which access may be had to the spirits must be securely locked. Singlings thus conveyed into a closed, locked still may be redistilled without supervision of a storekeeper-gauger and without gauging and recording on Form 15 prior to redistillation, but they must be redistilled during the month in which they are pro-

duced, unless the quantity remaining on hand at the end of the month is ascertained and recorded on Form 15.*

§ 184.184 *Collection of singlings for redistillation.* Where, under the process of distillation employed, singlings are separated and collected for redistillation otherwise than as provided in section 184.183, such singlings shall be run through closed pipes from the still into locked singlings tanks, in which they shall remain until gauged by the storekeeper-gauger and released for redistillation under his supervision.*

§ 184.185 *Gauging of singlings.* Where singlings are collected for redistillation otherwise than in a closed, locked still as provided in section 184.183, they will be gauged (measured and proofed) by the storekeeper-gauger immediately before being released from the singlings tanks for redistillation. Singlings produced each month must be redistilled as expeditiously as possible. They may not be accumulated from month to month, but singlings produced during one month may be mixed with the production for the succeeding month for redistillation if the quantity is first ascertained.*

§ 184.186 *Redistillation of singlings.* When the singlings have been gauged, they shall be run, by means of closed pipe lines, direct from the singlings tank into the still, or the distilling material sump, or the chargers of the still, or the distilling material pipe line leading to the still. Where the singlings are run into the distilling material sump, or the chargers of the still, or the distilling material pipe line leading to the still, such sump or chargers or pipe line must be closed and the operation must take place at the time the distilling material is being run into the still and the singlings thus mixed with the distilling material and distilled with the same. The singlings will be run into the still, or distilling material sump, or chargers of the still, or distilling material pipe line, and redistilled, under the immediate supervision of the storekeeper-gauger.*

§ 184.187 *Record of singlings.* The quantity of singlings produced will be entered on Form 15 by the distiller as of the date they are gauged for redistillation. Where singlings are mixed with distilling material for redistillation the distiller will make an entry of such disposition of the singlings in red ink on Form 15, in the several columns under the heading "Materials distilled." The entry will be interlined in connection with the entry covering the use of the distilling material with which the singlings are mixed, and the quantity of such singlings will be taken into consideration in determining the calculated yield and the actual yield from the material distilled.* (Sec. 2841, I.R.C.)

§ 184.188 *Distillation requiring supervision.* Fortified wines received for the production of dealcoholized wine containing less than one-half of 1 percent of alcohol by volume, and fortified

wine which became unfit for use as wine prior to the removal from the winery premises, champagne, or other sparkling wine, and artificially carbonated wine, received for use as distilling material, must be distilled under the supervision of a Government officer.* (Secs. 3031, 3037, I.R.C.)

§ 184.189 *Request for assignment of officer.* When it is desired to distill such wines, and there is no officer on duty at the distillery, the distiller will request the district supervisor to assign an officer to supervise the distillation. This request must set forth the time it is desired to begin distillation, the kind and approximate quantity of wine to be distilled, and the time that will be required for distillation. The request must be filed with the district supervisor in ample time for an officer to be detailed to such duty. If an officer is on duty at the distillery, the request to supervise the distillation will be filed with such officer.* (Secs. 3031, 3037, I.R.C.)

§ 184.190 *Duty of officer.* The officer supervising the distillation of such wine will, before distillation is commenced, determine the kind, quantity, and alcoholic content of the material to be distilled and will see that such data are properly entered on Form 15. The officer will then supervise the distillation, and upon completion thereof will submit a report to the district supervisor showing the kind, quantity, and alcoholic content of the wine distilled.* (Secs. 3031, 3037, I.R.C.)

§ 184.191 *Heads and tails.* Distillates containing one-half of 1 percent or more of aldehydes, or 1 percent or more of fusel oil, known as "heads" and "tails," separated in the course of distillation, will be run into locked tanks, as provided in section 184.207.* (Sec. 2916, I.R.C.)

Locking of Distillery

§ 184.192 *When to be locked.* Whenever spirits are contained at any place in the distillery other than under Government lock in the receiving room or brandy deposit room, or package storeroom within the brandy deposit room, the distillery building or portion thereof in which such spirits are contained must be kept securely locked by the distiller in the absence of himself or his agents. The locks used by the distiller to secure doors, windows, or other openings of the distillery building, or portions thereof, in which spirits are so contained, must be such as will, in the opinion of the district supervisor, safeguard the spirits against illegal removal.*

§ 184.193 *Keys of distillery locks.* The distiller shall furnish the district supervisor as many keys to the locks provided for securing the entrance door or doors of the distillery building, or portions thereof, which are required to be locked, as may be deemed necessary by the district supervisor from time to time, in order that the distillery or any portion thereof may be accessible at any

time to Government officers authorized to enter and inspect the premises.*

Treatment of Spirits in Course of Distillation

§ 184.194 *Rectification.* The law provides that every person shall be regarded as engaged in the business of rectifying who rectifies, purifies, or refines distilled spirits by any process other than by original and continuous distillation from mash, wort, or wash through continuous, closed vessels and pipes until the manufacture thereof is complete. A distiller may, therefore, carry his product through as many processes of distillation as he may desire without becoming liable as a rectifier, provided the process is continuous (as defined in section 184.182), commencing with the distillation of the fermented material, and the product of distillation is carried through continuous, closed vessels and pipes until the finished product is deposited in the receiving tanks.* (Sec. 3254 (g), I.R.C.)

§ 184.195 *Purifying or refining spirits.* Under the law, distillers are allowed to purify or refine distilled spirits in the course of original and continuous distillation, through any material which will not remain incorporated with such spirits when the manufacture thereof is complete. The apparatus to be used for purifying or refining in a distillery must be arranged and constructed as required by these regulations.* (Sec. 3254 (g), I.R.C.)

§ 184.196 *Percolation through oak chips.* Brandy may be percolated through or treated with oak chips which have not been treated with any chemical, upon approval of the process by the Commissioner. The apparatus to be used for percolating brandy must be arranged and constructed as required by these regulations.* (Sec. 3254 (g), I.R.C.)

§ 184.197 *Samples before and after treating.* Where the distiller has been authorized to introduce materials or substances into brandy during the course of original and continuous distillation for the purpose of purifying or refining the brandy, or where he has been authorized to introduce oak chips into the brandy, the district supervisor will cause storekeeper-gaugers to procure samples of such brandy, both before and after processing, when the process is first used and thereafter from time to time. The samples will be forwarded to the Government chemist for analysis. The chemist will furnish a report thereof, in duplicate, to the district supervisor, who will forward one copy to the Commissioner.* (Sec. 3254 (g), I.R.C.)

§ 184.198 *Disposition of substances used for treating brandy.* Materials used for purifying or refining brandy, and oak chips introduced into the brandy, will be thoroughly washed, steamed, or otherwise treated to extract the brandy therefrom before removal from the process. Upon removal, the materials must be burned

in the distillery furnace or in the distillery yard. If such burning is not practicable, due to the type of furnace in use, fire regulations, or to other valid reason, such materials must be treated with kerosene before the removal thereof from the distillery premises. Where kerosene is used, it must be sprayed or sprinkled on the materials, using not less than 1 gallon of kerosene to each 100 pounds of materials, in such manner as to preclude the abstraction of potable brandy from any part of the entire mass after the materials are removed from the distillery premises. Such burning or treating of materials must be done under the supervision of the Government officer. The Commissioner may authorize any other disposition of the materials as will effectually prevent recovery of spirits therefrom.*

Deposit of Spirits in Receiving Tanks

§ 184.199 *Immediate deposit required.* All brandy produced must be deposited immediately upon completion of manufacture in securely locked receiving tanks. Brandy produced and conveyed into receiving tanks each month must be kept separate in such tanks until gauged by the storekeeper-gauger and removed on or before the 10th day of the succeeding month. The spirits must be deposited in separate receiving tanks according to class (brandy, spirits—fruit) and type (grape brandy, apple brandy, peach brandy, etc.).*

Comparison of Actual Yield with Calculated Yield

§ 184.200 *Abnormal differences to be investigated.* The storekeeper-gauger will verify the distiller's computation of the calculated yield from the materials distilled and will compare the same with the quantity of spirits produced therefrom. Where the difference between the calculated yield and the actual yield is more than that determined by experience to be the normal difference for the particular plant, the storekeeper-gauger will make a thorough inquiry to determine the reason or reasons therefor, and will make a full report of his findings to the district supervisor. If the findings of the officer do not fully explain the discrepancy, the district supervisor will cause such further investigation to be made as may be deemed advisable.*

§ 184.201 *Distiller's responsibility.* Distillers will be held responsible for producing a quantity of spirits equal to that contained in the material distilled, less the actual deficiency resulting in distillation. District supervisors will carefully check the returns of distillers as to production and, where the difference between the calculated yield and the actual yield is more than that determined by experience to be the normal difference for the particular plant, they will investigate any excessive deficiency in production thus disclosed, unless such deficiency is satisfactorily explained in reports submitted by Government officers on duty at

or detailed to visit the plant. Where, in any case, the facts indicate that brandy has been produced and not accounted for, the district supervisor will proceed in accordance with Article XXVII.*

Disposition of Residue of Distilling Material

§ 184.202 *Authorized use of such residue.* The undistilled residue of distilling material (wine lees and cheese) may be removed from distilleries for use as fertilizer or other by-product, providing the liquid is expressed from the material before removal and it is not received on any winery or other distillery premises.*

§ 184.203 *Removal.* Where a storekeeper-gauger is assigned to the distillery the material will be removed in his presence. The distiller will make appropriate entry on Form 15 of the removal of such material. If disposed of to other persons, the names and addresses of such persons should be reported on Form 15.* (Sec. 2841, I.R.C.)

Destruction of Distilling Material Unfit for Distillation

§ 184.204 *Inspection.* When the distiller reports that he has on hand any distilling material which has become unfit for distillation and which he desires to destroy, the storekeeper-gauger will inspect such material for the purpose of determining whether it is actually unfit for distillation. Where no officer is assigned to the distillery, the distiller will request the district supervisor, in writing, to detail an officer to supervise destruction of the material, stating the kind, quantity, alcoholic content, and condition of the material. The district supervisor will detail an officer to inspect the material and, if found unfit for distillation, to supervise its destruction, unless the quantity involved is, in the judgment of the district supervisor, insufficient to justify the visit of an officer, in which event the district supervisor may, in writing, authorize the distiller to destroy the material without supervision.*

§ 184.205 *Report of destruction.* The material must not be destroyed until it is inspected by a Government officer, unless destruction without supervision is authorized by the district supervisor. When the material is found by an inspecting Government officer to be useless for distillation, he will supervise destruction thereof and submit a report of his action to the district supervisor. The destruction of the material will be entered by the distiller on Form 15.* (Sec. 2841, I.R.C.)

§ 184.206 *Destruction of wine.* Wine removed from a bonded winery free of tax for use as distilling material may not be destroyed at a distillery unless the wine tax is first paid thereon by the distiller, or it is determined by chemical analysis that the wine is unfit for use.* (Secs. 3030, 3037, I.R.C.)

ARTICLE XXI—COLLECTION AND REMOVAL OF DISTILLATES, DISTILLED WATER, FUSEL OIL, AND CARBON DIOXIDE GAS

Collection, and Destruction or Removal for Denaturation, of Certain Distillates

§ 184.207 *General.* Fruit distillers may collect in locked tanks provided in accordance with section 184.44, distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, commonly known as "heads" and "tails," removed in the course of distillation. Such distillates may be removed from the distillery for denaturation or destroyed on the distillery premises, under the immediate supervision of the storekeeper-gauger assigned to the distillery or another Government officer designated by the district supervisor for the purpose. When so denatured or destroyed, such distillates shall not be subject to the tax imposed by law upon distilled spirits. Such distillates so collected in fruit distilleries may be drawn into casks, barrels, or other containers and stored in the brandy deposit room of the distillery where produced, pending removal for denaturation or destruction.* (Secs. 2916, 3170, I.R.C.)

§ 184.208 *Collection of distillates.* Distillates containing one-half of 1 percent or more of aldehydes, or 1 percent or more of fusel oil, collected in locked tanks at fruit distilleries shall be removed from such tanks for denaturation or destroyed or transferred to the brandy deposit room within 30 days from the date of the commencement of the collection thereof, unless the distillates are to be shipped for denaturation and the quantity collected in such tanks during such period is insufficient for a carload shipment (but not over 10,000 wine gallons), in which event the distiller may continue to accumulate such distillates in such tanks until a sufficient quantity for a carload shipment has been so collected: *Provided*, That no such distillates shall be held at the distillery for a period exceeding 90 days, unless the distillates are transferred to the brandy deposit room.* (Sec. 2916, I.R.C.)

§ 184.209 *Samples by distiller.* Distillers may procure in accordance with the procedure prescribed in Article XXIV, a requisite number of samples of such distillates for laboratory analysis to determine that they contain the required percentage of aldehydes or fusel oil.* (Sec. 2916, I.R.C.)

§ 184.210 *Aldehydes and fusel oil not to be mixed with spirits.* Where aldehydes or fusel oil, as distinguished from heads and tails, are drawn from column stills and run into separate tanks, such aldehydes and fusel oil may not be mixed with spirits for the purpose of making such spirits eligible for destruction or denaturation free of tax.* (Sec. 2916, I.R.C.)

§ 184.211 *Application.* Whenever the distiller desires to remove any distillate

containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil to a denaturing plant for denaturation or to destroy it or to draw it into packages and store it in the brandy deposit room of the distillery pending removal for denaturation or destruction, he shall make application, in triplicate, to the district supervisor for permission so to do. The application will be made on Form 1577 if the distillate is to be destroyed immediately upon being drawn from the tanks in which collected, Form 1578 if the distillate is to be removed to a denaturing plant for denaturation immediately upon being drawn from the tanks in which collected, Form 1578-A if the distillate is to be drawn into packages and stored in the brandy deposit room pending removal for denaturation or destruction, or Form 1578-B if previously filled packages of the distillate are to be removed from the brandy deposit room for denaturation or destruction. Where a storekeeper-gauger is assigned to the distillery application on Form 1577, 1578, or 1578-A will be submitted through such officer. Application on Form 1578-B will, in all cases, be filed direct with the district supervisor, as hereinafter provided.* (Sec. 2916, I.R.C.)

§ 184.212 *Samples by storekeeper-gauger.* Where application on Form 1577, 1578, or 1578-A is submitted through the storekeeper-gauger assigned to the distillery, such officer will take a pint sample from each designated tank and, after assigning a serial number to each sample and properly labeling each sample for identification, will submit the sample to the nearest Bureau branch laboratory for analysis, accompanied by a transmittal letter, in duplicate. Where application on such forms is forwarded direct to the district supervisor, he will detail an officer to take the requisite samples for analysis. All copies of the application will be delivered to the officer so detailed. The contents of each tank must be thoroughly agitated before a sample thereof is taken. The inlet of the tank must be closed and locked before the sample is taken, and, when the sample has been obtained, the outlet of the tank will be likewise closed and locked. The inlet, outlet, and all openings of the tank will be kept securely locked pending analysis of the sample. Before submitting the samples to the Government chemist, the officer who obtained them will note on each copy of the application, in the space provided therefor, the serial number of each sample, the serial number of the tank from which taken, and the date each was taken, and will submit all copies of the application to the district supervisor. (Sec. 2916, I.R.C.)

§ 184.213 *Analysis of samples.* The Government chemist will analyze each sample to determine the percentages of aldehydes or fusel oil and alcohol present, and will submit to the district super-

visor a report of his analysis, in duplicate.* (Sec. 2916, I.R.C.)

§ 184.214 *District supervisor's order to gauge.* If the report of the chemist shows that the distillate contains one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, the district supervisor will execute Part 2 of the application, Form 1577, 1578, or 1578-A, directing the storekeeper-gauger to gauge the distillate and supervise destruction thereof, or the removal thereof for shipment to the denaturing plant named in the application upon presentation of proper permit, or the storage thereof in packages in the brandy deposit room pending removal for denaturation or destruction, as the case may be. After executing Part 2, the district supervisor will forward or deliver all copies of the application, together with one copy of the chemist's report, to the storekeeper-gauger assigned to the distillery or detailed to visit the distillery for such purpose.* (Secs. 2916, 3170, I.R.C.)

§ 184.215 *Disapproval of application.* If the report of the Government chemist shows that the distillate contains less than the required percentage of aldehydes or fusel oil, the district supervisor will disapprove the application and return one copy to the distiller and one copy to the storekeeper-gauger, if any, at the distillery, accompanied by a statement of the reasons for disapproval.* (Sec. 2916, I.R.C.)

§ 184.216 *Distillates not meeting requirements for denaturation.* Where distillates so collected are of insufficient proof for denaturation, or contain less than the required percentage of aldehydes or fusel oil, they may, for the purpose of further distillation, be returned from the heads and tails tank to the still through continuous, closed metal pipes, constructed as provided in section 184.44. When so redistilled after the submission of application and samples, a new application and new samples must be submitted in accordance with sections 184.211 and 184.212. The distillates must, as provided in section 184.207, contain the required one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil at the time of removal for denaturation or destruction or withdrawal into packages to be stored in the brandy deposit room pending removal for denaturation or destruction.* (Sec. 2916, I.R.C.)

§ 184.217 *Gauge of distillate.* Upon being drawn from the heads and tails tanks for removal for denaturation or destruction, or into packages for storage in the brandy deposit room pending removal for denaturation or destruction, the distillate shall be gauged. The details of the gauge will be entered by the storekeeper-gauger on Form 1520. The form will be prepared in triplicate if the distillate is to be immediately destroyed or if it is drawn into packages for storage in the brandy deposit room, and in quintuplicate if the distillate is to be immediately removed for denaturation.

Where the distillate is to be shipped to a denaturing plant in another district an extra copy of Form 1520 will be prepared.* (Sec. 2916, I.R.C.)

§ 184.218 *Marking and branding of packages.* When the distillate is drawn into packages either for immediate removal for denaturation or for storage in the brandy deposit room pending removal for denaturation or destruction, such packages shall be marked and branded in the same manner as packages of other spirits are required to be marked and branded when removed from the distillery for deposit in a bonded warehouse, except that (1) the kind of spirits shall be designated by the words "Impure Spirits—For Denaturation," plainly and durably stenciled or marked on the head of the package in letters not less than three-fourths inch in height; (2) the phrase "Contains ----% Aldehydes," or "Contains ----% Fusel Oil," or "Contains ----% Aldehydes and ----% Fusel Oil," shall also be plainly and durably stenciled or marked on the head of the package following the words, "Impure Spirits—For Denaturation"; and (3) the proof at which the spirits were distilled need not be placed upon the package. Where the distillate is to be stored in the brandy deposit room the words "For Denaturation" need not be placed upon the packages unless and until they are removed for shipment to a denaturing plant.* (Sec. 2916, I.R.C.)

§ 184.219 *Storage in packages.* Such distillates drawn into packages for storage in the brandy deposit room will be immediately placed in such room. The storekeeper-gauger will then execute his report on Part 3 of all copies of Form 1578-A and will forward one copy of the form, with a copy of Form 1520 attached, to the district supervisor, retain one copy of each form on file, and deliver one copy of each to the distiller.* (Sec. 2916, I.R.C.)

§ 184.220 *Transfer to storage tanks.* Distillates containing one-half of 1 percent or more of aldehydes, or 1 percent or more of fusel oil, may be transferred by pipe line from the heads and tails tanks in which originally collected to heads and tails storage tanks in the brandy deposit room and stored therein pending removal for denaturation or destruction. Heads (aldehyde distillate) and tails (fusel oil distillate) may not be transferred to the same storage tank. The distillate may be transferred to storage tanks only after laboratory analysis, made by or for the distiller, of a representative sample of the contents of each tank to be transferred has shown that the distillate contains the required percentage of aldehydes or fusel oil. Reports of laboratory analyses shall be available for inspection by Government officers, and the distillates shall be transferred under the immediate supervision of the storekeeper-gauger. Such distillates stored in tanks in the brandy deposit room shall be removed for destruction or denaturation pursuant to application on Form 1577 or Form 1578.

in accordance with the procedure for the removal of such distillates from the tanks in which originally collected.* (Sec. 2916, I.R.C.)

§ 184.221 *Period of storage in brandy deposit room.* Distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil stored in the brandy deposit room of the fruit distillery must be removed therefrom and shipped to a denaturing plant for denaturation or destroyed within 30 days after the suspension of distilling operations for the season or for a period of 30 days or more: *Provided*, That where the distillery is not so suspended the Commissioner may require removal of the distillate at such times as he may deem proper.* (Sec. 2916, I.R.C.)

§ 184.222 *Removal of previously filled packages.* When the distiller desires to remove previously filled packages of such distillate from the brandy deposit room for destruction or for shipment to a denaturing plant for denaturation, he will file application therefor with the district supervisor on Form 1578-B, in triplicate, as provided in section 184.211. If the application is approved, the district supervisor will execute his order on Part 2 thereof, and will forward or deliver all copies to the storekeeper-gauger or other Government officer designated to supervise the removal of the distillate for denaturation or destruction, as the case may be. Packages will not be regauged upon removal from the brandy deposit room for denaturation or destruction, unless they bear evidence of loss. Where the packages are removed on the filling gauge for denaturation, the storekeeper-gauger will prepare two copies of Form 1520 if the denaturing plant to which they are to be shipped is located in the same district, and three copies if it is located in another district. The necessary details will be copied from the report of the filling gauge. If any package is regauged upon removal from the brandy deposit room, the number of copies of Form 1520 specified in section 184.217 will be prepared.* (Secs. 2916, 3170, I.R.C.)

§ 184.223 *Destruction of distillate.* The distillate may be destroyed by running the same into the sewer or by other suitable means. The destruction must be carried out under the immediate supervision of the storekeeper-gauger, who will then execute his report on Part 3 of Form 1577 or Part 3 of Form 1578-B, as the case may be, and will attach to each copy of Form 1577 a copy of the report of gauge. No copies of Form 1520 will be attached to Form 1578-B, except where packages bearing evidence of loss are regauged. The storekeeper-gauger will forward one copy of Form 1577, with Form 1520 attached, or Form 1578-B, to the district supervisor, retain one copy of each form on file, and deliver one copy of each to the distiller.* (Sec. 2916, I.R.C.)

§ 184.224 *Release for denaturation.* The distillate may be removed for ship-

ment to a denaturing plant for denaturation pursuant to a special permit issued by the district supervisor on Form 1464, authorizing the denaturer to procure the same. The storekeeper-gauger will not release the distillate for shipment until the distiller has presented to him such special permit for examination. The distillate must be drawn into packages and gauged, marked, and branded as provided in sections 184.217 and 184.218, unless previously so packaged for storage in the brandy deposit room, or gauged and run into railroad tank cars in accordance with the provisions of section 184.225, and immediately removed from the distillery premises, under the personal supervision of the storekeeper-gauger. When such impure spirits are removed from the distillery for denaturation they must, in each instance, be shipped to a denaturing plant. Such spirits may not be shipped to an alcohol plant or an alcohol bonded warehouse, nor may they after receipt at a denaturing plant be redistilled or used for any purpose other than for denaturation.* (Sec. 2916, I.R.C.)

§ 184.225 *Removal in tank cars.* The removal of such distillate in railroad tank cars from the distillery to the denaturing plant for denaturation shall be in accordance with the procedure (insofar as applicable) and under the conditions governing the removal and transfer of other spirits in bond in such tank cars, as prescribed in these regulations. The markings prescribed in section 184.218, respecting the kind of spirits and the percentage of aldehydes or fusel oil therein, shall be added to the label the storekeeper-gauger is required to affix to such tank cars of spirits before they are released.* (Sec. 2916, I.R.C.)

§ 184.226 *Report of shipment to denaturing plant.* When such distillates are released from the distillery for transportation to the denaturing plant, the storekeeper-gauger will execute his report on Part 3 of Form 1578 or Part 3 of Form 1578-B, as the case may be, and will attach to each copy of Form 1578 a copy of the report of gauge. No copies of Form 1520 will be attached to Form 1578-B, except where packages bearing evidence of loss are regauged. The storekeeper-gauger will forward one copy of Form 1578, with Form 1520 attached, or Form 1578-B, to the supervisor of the district from which the shipment is made, retain one copy of each form on file, deliver one copy of each form to the distiller, forward one copy of Form 1520 to the proprietor of the denaturing plant and one copy to the storekeeper-gauger at the denaturing plant. Where the denaturing plant is in another district the extra copy of Form 1520 provided for in sections 184.217 and 184.222 will be forwarded to the supervisor of such district.* (Sec. 2916, I.R.C.)

§ 184.227 *Inspection at denaturing plant.* Upon receipt of the distillate at the denaturing plant the storekeeper-gauger will inspect the packages or rail-

road tank car, as the case may be, and if it appears that any distillate has been abstracted or lost in transit he will prepare a statement setting forth the identity of the containers, a description of the condition of each, and the apparent cause of such condition, and will forward such statement to the supervisor of the district from which the shipment was made, as hereinafter provided.* (Sec. 2916, I.R.C.)

§ 184.228 *Regauge at denaturing plant.* Upon completion of the storekeeper-gauger's inspection, the distillate will be gauged by the proprietor of the denaturing plant under the supervision of the storekeeper-gauger. If the gauge discloses no discrepancy between the quantity shipped and the quantity received, other than that which may be ascribed to variation in gauge, the storekeeper-gauger will make a notation of receipt on the copy of Form 1520 received by him from the storekeeper-gauger at the distillery and forward the same to the supervisor of the district from which the shipment was made. If the gauge discloses a loss in transit, the proprietor will prepare a report of gauge on Form 1440, in duplicate, and give one copy to the storekeeper-gauger and retain the other at the denaturing plant. The storekeeper-gauger will securely attach the copy of Form 1440 to the copy of Form 1520 received by him from the storekeeper-gauger at the distillery and forward the same, together with his inspection statement, to the supervisor of the district from which the shipment was made. (Sec. 2916, I.R.C.)

§ 184.229 *Losses of distillates.* No allowance can be made under section 2901 (a), I.R.C., or any other provision of law, for losses of such distillates by leakage or evaporation occurring during transportation to the denaturing plant or while stored in such plant prior to denaturation. The tax will be collected on all losses, unless the same are shown to be due to destruction by accidental fire or other casualty while in the distillery, or to theft, accidental fire, or other casualty while in transit, and the tax is remitted under section 2901 (b) or section 2901 (c), I.R.C. The liability of the distiller to tax on such distillates removed for denaturation shall continue until they have been deposited in the denaturing plant.* (Sec. 2916, I.R.C.)

§ 184.230 *Use for denaturation.* If the impure spirits are of improper proof for denaturation, they may be mixed with other spirits of higher proof at the denaturing plant in order to obtain the required proof for denaturation.* (Sec. 2916, I.R.C.)

§ 184.231 *Distiller's records.* The quantity of distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, separated and collected in the course of distillation, must be accurately determined each month and entered on Form 15 by the distiller. Such distillates produced during one month may

not be mixed with those produced in the succeeding month without prior ascertainment of the quantity produced. Whenever such distillates are removed for denaturation or destroyed, the distiller shall make appropriate entries on Form 15 in the spaces provided therefor.* (Sec. 2916, I.R.C.)

§ 184.232 *District supervisor's account.* The district supervisor will enter the production, removal for denaturation, destruction, and tax-payment (if any), of distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil on Form 412, "Schedule of Returns of Fruit Distillers," as indicated by the headings of the columns and lines and in accordance with the instructions printed on the form.* (Sec. 2916, I.R.C.)

Collection and Removal of Distilled Water

§ 184.233 *Collection.* If distilled water is collected at the distillery, it must be run into storage tanks provided in accordance with section 184.45, and retained therein until drawn off and removed as hereinafter provided.*

§ 184.234 *Removal.* Distilled water must be drawn off into barrels or other containers prior to removal from the distillery premises: *Provided*, That such water may be transferred off the distillery premises to contiguous plants operated under internal revenue laws, including tax-paid bottling houses, by means of an independent pipe line constructed and installed in accordance with the provisions of section 184.45. Distilled water must under no circumstances be drawn off or removed through the receiving room or brandy deposit room or bonded warehouse. Barrels or other wooden containers in which distilled spirits were previously packaged may not be used for the removal of distilled water.*

§ 184.235 *Marking of packages.* If distilled water is drawn into packages for removal from the distillery premises, such packages must be marked by the distiller with his name, distillery number, location (city or town and State), the words "Distilled Water," and the date of removal, in distinct and legible letters.*

§ 184.236 *Supervision of removal.* All distilled water when drawn into packages for removal or when removed by pipe line must be inspected by the storekeeper-gauger and removed under his immediate supervision. The distiller will note on Form 15 all removals of distilled water, including the name and address of the consignee.*

Collection and Removal of Fusel Oil

§ 184.237 *Collection.* If fusel oil is collected at the distillery, it must be run into locked storage tanks provided for the purpose in accordance with section 184.42, and retained therein until tested and removed from the distillery premises or transferred to storage tanks.*

§ 184.238 *Storage.* When fusel oil is transferred from the tanks in which it is collected in the course of distillation to storage tanks for temporary storage pending removal from the distillery premises, it must be tested as provided in the following section immediately before being deposited in the storage tanks and immediately before being drawn therefrom into shipping containers.*

§ 184.239 *Removal.* The removal of fusel oil from the distillery will be permitted upon compliance with the following requirements:

(a) *Washing and purifying.* The oil must first be thoroughly washed and purified and before being removed from the storage tank must be well mixed and a sample drawn from each tank into a test tube to be provided by the proprietor for use by the storekeeper-gauger in determining whether the oil is substantially free from alcohol.

(b) *Test tube.* The test tube is of glass, bulb-shaped, and closed at one end, having a graduated scale marked upon the glass in degrees from 0 near the top to 100 near the swell of the bulb. The bulb shall contain three times as much liquid as that portion of the tube which is graduated from 0 to 100.

(c) *Test.* The tube having been filled with saturated salt solution up to the mark 100, oil shall be added until the tube is filled to the mark 0. The oil and saturated salt solution shall then be thoroughly mingled by violently agitating the contents of the tube. If, after sufficient time has been allowed for the oil to separate fully from the saturated salt solution and resume its position at the top of the tube, the scale shall show that not more than 10 degrees or 10 percent of the oil has disappeared or been dissolved in the saturated salt solution, the oil shall be passed as merchantable, that is to say, containing so small a quantity of alcohol as to remove all practical possibility of recovering the same, but if over 10 degrees of oil disappears, the oil shall not be considered as sufficiently purified, and may not be removed in that condition.

(d) *Saturated salt solution.* The saturated salt solution to be used is a solution of common table salt in water, containing all the salt which the water is capable of dissolving. The solution is to be provided by the distiller.

(e) *Containers.* Fusel oil which meets the requirements of the prescribed test may be removed from the distillery in barrels, drums, or similar packages or tank cars. Packages containing such fusel oil shall be marked by the distiller with his name, distillery number, location (city or town and State), the words "Fusel Oil," and the date of removal, in distinct and legible letters. When removal is made in tank cars the distiller will affix to each car a label containing such data.

(f) *Supervision.* All fusel oil must be removed from the distillery under the

immediate supervision of the storekeeper-gauger.

(g) *Record of removal.* The distiller will enter on his monthly return, Form 15, all removals of fusel oil, including the name and address of the consignee, and the percentage of loss shown upon the test of such oil.

(h) *Disposition of water used for washing fusel oil.* The water used for washing or purifying the oil in the tanks may be conveyed directly to the still, or it may be run into a receiving tank or into the sewer, or it may be otherwise destroyed on the premises. If the washwater is run into a receiving tank, it will be handled the same as washwater from carbon dioxide gas (see section 184.240).*

Recovery and Removal of Carbon Dioxide Gas

§ 184.240 *Procedure.* Carbon dioxide gas may be recovered from fermenters and removed from the distillery premises, provided it is first thoroughly washed or scrubbed and purified to remove the alcohol therefrom. Where carbon dioxide gas is recovered, the washwater may be collected in a receiving tank and, after the quantity and alcoholic content are determined by the storekeeper-gauger, it may be transferred by pipe line to the fermenter or to the distilling material sump, or measuring tank. An approved ebulliometer shall be used in determining the alcoholic content of the washwater. Where the washwater is transferred to the distilling material measuring tank the transfer must be made before the material is tested at the time of distillation. The distiller will note on his monthly return, Form 15, the date, number of gallons, alcoholic content, and the disposition of such washwater. If the washwater is not utilized in the manufacture of brandy, it will be run into the sewer or otherwise destroyed on the premises under the supervision of the storekeeper-gauger.*

ARTICLE XXII—ADDITION OF BURNT SUGAR OR CARAMEL TO BRANDY

§ 184.241 *Time of addition.* Except as provided in section 184.245, fruit distillers desiring to add burnt sugar or caramel to brandy must do so prior to the time the brandy is gauged for removal from the distillery. The burnt sugar or caramel must be added in the presence of the storekeeper-gauger.* (Sec. 3036, I.R.C.)

§ 184.242 *Quantity which may be added.* The quantity of burnt sugar or caramel which may be added to brandy must not exceed 6 fluid ounces to each 50 gallons of brandy. The burnt sugar or caramel used shall not contain any substantial quantity of sugar which has not been caramelized, or possess any material sweetening properties.* (Sec. 3036, I.R.C.)

§ 184.243 *Method of adding burnt sugar or caramel.* The burnt sugar or caramel may be added to the brandy while it is in the receiving tanks or in

storage tanks in the brandy deposit room, or the brandy may be transferred to special tanks or vats and the burnt sugar or caramel added to the same therein. Where the brandy is transferred to special tanks or vats for the addition of burnt sugar or caramel thereto, such tanks or vats must be fitted with covers equipped for locking with Government locks, and such covers and other openings of the tanks or vats must be so locked unless the brandy is drawn into packages or removed by pipe line immediately in the presence of the storekeeper-gauger. The burnt sugar or caramel may be dissolved in a small quantity of hot water, or in a small quantity of brandy removed from the tank or vat for the purpose, before it is added to the bulk of the brandy in the tank or vat.*

§ 184.244 *Determination of proof of brandy.* After the burnt sugar or caramel is added, the brandy in the tank will be thoroughly plunged and agitated and its proof then determined. The proof of the brandy will, however, be checked several times while the brandy is being drawn off, as provided in the Gauging Manual. The proof so ascertained will be regarded as the proof of the brandy run into all the packages filled from the tank.* (Sec. 2878 (a), I.R.C.)

§ 184.245 *Addition to packages in warehouse.* Burnt sugar or caramel may be added to packages of brandy in warehouse only where the brandy is shown to be unmerchantable by reason of being deficient in color and it is shown that the failure to properly color the brandy prior to the filling of the packages was due to no negligence or fault of the distiller. In such cases, application must be filed with the district supervisor by the distiller or warehouseman, showing the serial numbers of the barrels, the name of the producing distiller, and the necessity for the addition of the burnt sugar or caramel to the brandy. The district supervisor will cause the brandy to be inspected, and, when deemed advisable, he will have representative samples of the brandy taken by the storekeeper-gauger and submitted to the nearest Bureau branch laboratory for examination to determine whether the brandy is deficient in color. If the brandy is found to be unmerchantable, owing to color deficiency, the district supervisor may permit the addition, under the immediate supervision of the storekeeper-gauger, of a small quantity of burnt sugar or caramel to each of the barrels, within the limitations prescribed by section 184.242, after the brandy has been regauged for tax-payment and prior to the purchase and affixing of the tax-paid stamps to the barrels.* (Sec. 3036, I.R.C.)

ARTICLE XXIII—THE TAX ON BRANDY AND OTHER DISTILLED SPIRITS

§ 184.246 *Rate of tax.* The law imposes a tax on distilled spirits produced in or imported into the United States at the rate of \$2.25 on each proof gallon or wine gallon when below proof and a pro-

portionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid when withdrawn from bond, except brandy distilled at less than 190 degrees proof, on which the tax is imposed at the rate of \$2 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon. Spirits distilled from fruit at a proof of 190 degrees or over (spirits—fruit) are subject to the tax at the higher rate.* (Sec. 2800 (a), I.R.C.)

§ 184.247 *Attachment of tax.* Under the law, the tax attaches to distilled spirits as soon as such substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.* (Sec. 2800 (c), I.R.C.)

§ 184.248 *Persons liable for tax.* The law provides that every proprietor or possessor of, and every person in any manner interested in the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.* (Sec. 2800 (d), I.R.C.)

Lien for Tax on Distilled Spirits

§ 184.249 *Tax to be first lien.* Except as provided in section 184.251, the tax on distilled spirits becomes, under the law, a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land whereon said distillery is situated, and on any building thereon, from the time said spirits are in existence as such until the tax is paid.* (Sec. 2800 (e) (1), I.R.C.)

§ 184.250 *Assessments become lien.* Except as provided in section 184.251, all assessments made by the Commissioner, upon examination of the distiller's monthly return, become a lien, under the law, from the time the assessment is made until the same shall have been paid, on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon.* (Sec. 2846, I.R.C.)

§ 184.251 *Extent of lien.* By virtue of the exemption from the provisions of section 2815 (b), I.R.C., afforded to distillers of brandy pursuant to the authority contained in section 2825, I.R.C., the lien under section 2800 (e), I.R.C., and section 2846, I.R.C., is held to attach only to the distiller's interest in the distillery property at the time the spirits are produced.* (Secs. 2800 (e), 2846, I.R.C.)

§ 184.252 *Extinguishment of lien.* Any lien under section 2800 (e) (1), on any land, or any building thereon, shall be held to be extinguished if (1) such land and building are no longer used for distillery purposes, and (2) there is no out-

standing liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (3) no litigation is pending in respect to any such tax or penalty.* (Sec. 2800 (e) (3), I.R.C.)

§ 184.253 *Certificate of discharge of lien.* Any person claiming any interest in any such land or building may apply to the district supervisor for a duly acknowledged certificate to the effect that such lien is discharged and, if the Commissioner determines that any such lien is extinguished, the district supervisor shall issue such certificate, and any such certificate may be recorded.* (Secs. 2800 (e) (4), 3170, I.R.C.)

ARTICLE XXIV—WITHDRAWAL OF SAMPLES OF BRANDY OR FRUIT SPIRITS

§ 184.254 *Authority.* The law makes provision for the withdrawal, under regulations, of suitable samples of brandy or fruit spirits, tax-free if for laboratory analysis, and tax-paid if for any other use.* (Sec. 3037, I.R.C.)

Tax-Free Samples for Laboratory Analysis

§ 184.255 *Unfinished spirits.* The distiller may take samples of brandy or fruit spirits in the course of distillation for laboratory analysis. Each sample may not exceed one-half pint and the total number of samples must be restricted to the minimum necessary to accomplish the purpose of the laboratory analysis.* (Sec. 3037, I.R.C.)

§ 184.256 *Finished spirits.* The distiller may take from the receiving tanks of the distillery samples of brandy or fruit spirits for laboratory analysis. Such samples may not exceed 1 pint for each distillation of each kind of brandy or fruit spirits produced daily.* (Sec. 3037, I.R.C.)

§ 184.257 *Disposition of samples.* Tax-free samples must be used solely for laboratory analysis. Such samples may not be furnished to salesmen and dealers for advertising or soliciting purposes. Remnants or residues of tax-free samples taken in the course of distillation or from the distillery receiving tanks, remaining after analysis and which are not desired to be retained as laboratory specimens or for further analysis, should be returned to the vessels in the distilling system containing similar spirits, unless the condition of the remnants or residues is such as to render them unsuitable for such disposition. If such remnants or residues of samples are unsuitable for return to the distilling system, they should be destroyed.* (Sec. 3037, I.R.C.)

Tax-Paid Samples for Other Than Laboratory Analysis

§ 184.258 *Unfinished and finished spirits.* The distiller may take samples of brandy or fruit spirits in the distillery, either in the course of distillation or from the receiving tanks, for other than laboratory analysis, subject to payment of tax on the quantity so removed. Such samples must be used strictly for sample purposes, and the number and size of

the samples must be restricted to that necessary for bona fide sample purposes.* (Sec. 3037, I.R.C.)

General Requirements

§ 184.259 *Application.* When the distiller desires to procure samples of brandy or fruit spirits, he shall make application in triplicate to the district supervisor. The application should specify whether the samples are desired for laboratory analysis tax-free or for other purposes subject to payment of tax, the reasons why the samples are desired, the number and size of the samples to be taken, and the place or places of removal. Where it is desired to take samples from the distillery regularly for laboratory purposes, the application may be made for that purpose. No samples may be taken until the application is approved.* (Sec. 3037, I.R.C.)

§ 184.260 *Approval of application.* The district supervisor must satisfy himself as to the need for the number of samples desired and the legitimacy of the purpose for which they are to be used before approving the application. If the district supervisor approves the application, he will return one copy to the applicant, forward one copy to the storekeeper-gauger at the distillery, and retain the other copy in his office. Where no storekeeper-gauger is assigned to the distillery, the samples will be taken at such times as officers visit the distillery to gauge brandy, make inspections, etc., unless the circumstances are such as to warrant, in the opinion of the district supervisor, the detailing of an officer especially to permit the distiller to obtain samples.* (Sec. 3037, I.R.C.)

§ 184.261 *Removal under supervision.* All samples must be taken under the immediate supervision of the storekeeper-gauger assigned to the distillery or visiting Government officer.* (Sec. 3037, I.R.C.)

§ 184.262 *Label.* Each bottle containing a sample of brandy or fruit spirits must have affixed thereto by the distiller a label showing the name of the distiller, the kind of spirits, the word "Sample," and the purpose for which it is intended. The label may contain such other identifying data as the distiller desires to place thereon. Samples of spirits taken subject to payment of tax must have appropriate red strip stamps affixed to the bottles, and, where the quantity is one-half pint or more, the distiller should use his indicia bottles.* (Sec. 3037, I.R.C.)

§ 184.263 *Office record.* The storekeeper-gauger will keep an office record of all samples taken, giving the date, number, quantity in wine and proof gallons, and the proof. Taxable samples will be recorded separately from tax-free samples. If the distiller operates an internal revenue bonded warehouse on or contiguous to the distillery premises, the same record may be used for samples taken from the warehouse in accordance

with governing regulations.* (Sec. 3037, I.R.C.)

§ 184.264 *Report of taxable samples.* At the end of each month the storekeeper-gauger will prepare a report on Form 1615, in quadruplicate, of all taxable samples of brandy or fruit spirits withdrawn during the month from the distillery, or the distillery and warehouse where the distiller operates a warehouse on or contiguous to the distillery premises. All of the information called for on the form will be furnished. The storekeeper-gauger will retain one copy of the form and will deliver the remaining three copies to the distiller, who will forward such copies to the collector with remittance for the tax due. The collector will execute his certificate of tax-payment on each copy of the form, retain one copy and return the remaining two copies to the distiller, who will retain one copy and deliver the other copy to the storekeeper-gauger. The storekeeper-gauger will note the tax-payment on his retained copy and will forward the other copy to the district supervisor.* (Sec. 3037, I.R.C.)

ARTICLE XXV—TAX-PAYMENT, REMOVAL, AND TRANSFER OF BRANDY FROM DISTILLERY

Removals From Receiving Tanks

§ 184.265 *Authorized removals.* After being run into locked receiving tanks, the brandy will be:

(a) Drawn into packages, gauged, and tax-paid or removed to a bonded warehouse or to a winery, or placed in the brandy deposit room for temporary storage, pending tax-payment or removal to a bonded warehouse or to a winery;

(b) Transferred to a weighing tank, gauged, tax-paid, and conveyed into railroad tank cars for removal;

(c) Transferred to a weighing tank, gauged, and conveyed into railroad tank cars for shipment to a bonded warehouse or to a winery or, if not less than 180 degrees proof, for exportation;

(d) Transferred to a weighing tank, gauged, and conveyed by pipe line to storage tanks in a bonded warehouse on the distillery premises or to fortifying or storage tanks in the fortifying room of a bonded winery on contiguous premises;

(e) Transferred to a weighing tank, gauged, and conveyed to storage tanks in the brandy deposit room for temporary storage, pending tax-payment or removal to a bonded warehouse or a winery; or

(f) Transferred by pipe line direct from the receiving tank to a weighing tank in an internal revenue bonded warehouse on the distillery premises, or to a weighing tank in the fortifying room of a bonded winery on contiguous premises, and gauged in such weighing tank, but only in cases where a weighing tank is not provided in the distillery.* (Secs. 2878, 2888, 3031 (a), 3033, I.R.C.)

§ 184.266 *Proof of brandy.* Brandy, as defined in these regulations, may be produced, warehoused, and withdrawn at any desired proof: *Provided*, That brandy transferred into tank cars for exportation, free of tax, must be not less than 180 degrees proof. All packages of brandy must be marked and branded as to kinds (class and type), according to the Gauging Manual.* (Secs. 2878, 2888, I.R.C.)

§ 184.267 *Prompt removal required.* Brandy must be removed from receiving tanks at frequent intervals when a storekeeper-gauger is present to gauge the same. Receiving tanks are not intended to be used for storage purposes and the retention of brandy in such tanks for an indefinite period will not be permitted. Since the brandy produced is not gauged until it is drawn from the receiving tanks, it is necessary that prompt action in this respect be taken to determine the liability of the distiller for taxes which, under the law, immediately attach to all brandy produced.*

Storage in and Removal From Brandy Deposit Room

§ 184.268 *Storage.* Unless the brandy produced is tax-paid or transferred to a bonded warehouse or winery immediately upon being drawn from the receiving tanks and gauged, it must be temporarily stored in the brandy deposit room pending such disposition. However, where brandy is drawn into packages from receiving or storage tanks in the brandy deposit room, the packages must be removed from such room on the same day they are filled, or before other packages are filled therein, unless a separate room is provided in the brandy deposit room in accordance with the provisions of section 184.25, and all packages retained for temporary storage are placed in such room. When no brandy is stored in the brandy deposit room, the distiller may be permitted to use the room for other authorized purposes.*

§ 184.269 *Rooms to be locked.* The brandy deposit room and the filled package storeroom, if any, must be kept securely locked at all times while spirits are stored in such rooms, except when necessary to be open for the receipt or removal of spirits. The entrance door of the brandy deposit room and of the filled package storeroom, if any, must each be secured with a seal lock, the key to which will at all times be retained in the custody of the storekeeper-gauger, if any, assigned to the distillery, or the district supervisor or other Government officer designated by him. All manheads, inlets, outlets, or other openings of receiving and storage tanks in the brandy deposit room must likewise be secured with Government locks while brandy is contained therein.*

§ 184.270 *Removal.* Brandy placed in the brandy deposit room or in the filled package storeroom, if any, must be tax-paid or removed to a bonded warehouse

or to a winery on or before the 10th day of the month following that in which it was produced, as provided in section 184.272.* (Sec. 2, 19 Stat., 393; C. 1194, 25 Stat., 560; 26 U.S.C., 1251)

§ 184.271 *Use of brandy deposit room.* The brandy deposit room must be used exclusively for the deposit and temporary storage of brandy, or distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil to be removed for denaturation or destruction, or both brandy and such distillates, except that when the room is not devoted to such use, or when all brandy therein is in a separate locked room as provided in section 184.268, the Government locks may be removed from the doors and other openings thereof and the distiller permitted to use the room for other purposes. When the brandy deposit room is used for other purposes, the door, if any, connecting such room with the receiving room must be kept closed and locked, unless the distillery operations have been suspended pursuant to notice on Form 124, as provided in Article XXIX, and all spirits have been removed from the receiving room.*

Time of Removal From Distillery

§ 184.272 *Date tax is due.* The tax on all brandy produced is due and payable on the 10th day of the month following the month of production, unless removed for deposit in an internal revenue bonded warehouse, or for transfer to a winery or, if not less than 180 degrees proof, for exportation on or before such date.* (Sec. 2, 19 Stat., 393; C. 1194, 25 Stat., 560; 26 U.S.C., 1251.)

§ 184.273 *Request for assignment of officer.* Where a storekeeper-gauger is not assigned regularly to a distillery, the distiller shall request the district supervisor to assign an officer to gauge the brandy produced in ample time to permit removal on or before the 10th day of the following month. Upon receipt of such request the district supervisor will promptly assign an officer to gauge the brandy.*

§ 184.274 *Assessment of tax.* The removal to a bonded warehouse or winery of brandy on which the tax is overdue will not be permitted, unless the failure to gauge and remove the brandy on or before the 10th day of the month following the month of production is due to no fault of the distiller. Where the distiller fails to provide proper facilities for gauging, or to make a timely request as provided in section 184.273 for the assignment of a storekeeper-gauger to gauge the brandy, the tax will be reported by the district supervisor to the Commissioner for assessment, unless it is immediately paid to the collector by the distiller.* (Sec. 3640, I.R.C.)

Containers

§ 184.275 *Packages.* Brandy may be drawn from receiving tanks, or from

storage tanks in the brandy deposit room, into casks, barrels, or similar wooden packages, or into drums or similar metal packages, having a capacity of not less than 10 wine gallons each: *Provided,* That brandy may, for the purpose of exportation only, be drawn into wooden packages each containing two or more metallic cans having a capacity of not less than 5 wine gallons each. The construction of such wooden packages for exportation, and the filling, marking, and branding thereof, must conform to the specifications therefor set forth in the regulations governing the warehousing of distilled spirits.* (Sec. 2878, I.R.C.)

§ 184.276 *Railroad tank cars.* Brandy may, as provided in section 184.265, be drawn into railroad tank cars for removal, but only in case the premises of the distiller and of the consignee are equipped with suitable railroad siding facilities. Such siding facilities must in the case of transfers in bond, extend into the receiving warehouse.* (Sec. 2878, I.R.C.)

§ 184.277 *Tank wagons and tank trucks.* The transportation of brandy in tank wagons and tank trucks will not be permitted.* (Sec. 2878, I.R.C.)

Drawing off, Gauging, and Removal of Brandy

§ 184.278 *Drawing off spirits.* When brandy is to be drawn from a receiving tank, the storekeeper-gauger will see that the valve in the pipe line controlling the flow of brandy into the tank and the valve in any connecting overflow pipe line are closed and locked before the brandy in the tank is reduced and proofed, and that such valves remain closed and locked until all brandy has been drawn from the tank. Whenever brandy is to be drawn from receiving tanks or transferred into or out of other tanks secured with Government locks, the storekeeper-gauger will open and close the locks, but it shall be the duty of the distiller to manipulate the stopcocks or valves controlling the flow of the brandy. The storekeeper-gauger is required to be present and personally supervise the drawing off of all brandy in the receiving tanks, the marking and branding of all packages of brandy filled therefrom, and the stamping of all packages tax-paid directly from the distillery. He will also see that all mechanical duties connected with such operations are properly performed as provided herein and in the Gauging Manual.*

§ 184.279 *Gauging of brandy.* All brandy drawn from receiving tanks, or from storage tanks in brandy deposit rooms, will be carefully gauged by the storekeeper-gauger and reported on Form 1520. All of the information indicated by the headings of the various columns and lines and the instructions printed on the form will be furnished. The storekeeper-gauger shall, in every instance, note on Form 1520 the proof of distilla-

tion of the brandy gauged. Brandy drawn into casks, barrels, drums, or similar packages shall be gauged according to the rules prescribed by the Gauging Manual. Brandy to be transferred by pipe lines from receiving tanks, or storage tanks in the brandy deposit room, shall also be gauged in accordance with the rules prescribed in the Gauging Manual, except that the weight of the spirits will be determined by means of weighing tanks, as provided in section 184.280.* (Sec. 2878, I.R.C.)

§ 184.280 *Weighing brandy removed by pipe line.* Brandy removed by pipe line must be weighed in weighing tanks before removal, except that where it is transferred by pipe line from the receiving tanks to a bonded warehouse on the distillery premises, or to the fortifying room of a winery on contiguous premises, and no weighing tank is provided in the distillery, the brandy may be run into weighing tanks in the bonded warehouse or the fortifying room and weighed therein. The brandy must, in any event, be weighed once in connection with its removal. Brandy transferred from distillery receiving tanks to storage tanks in the brandy deposit room, or from such receiving or storage tanks to tank cars, must be weighed in weighing tanks in the distillery. The storekeeper-gauger will balance the weighing tank scales before the brandy is run into the weighing tank. Scales used for weighing spirits in lots of not over 500 gallons will be tested from time to time, under the supervision of a storekeeper-gauger, by means of test weights provided in accordance with section 184.36. Such scales will be tested by placing the prescribed test weights on the scales and checking the weight registered on the beam. The test weights will then be removed without disturbing the beam and the tank filled with brandy or water to the same weight, whereupon the test weights will again be placed upon the scales, the brandy or water being retained in the tank and the weight registered on the beam checked. This operation will be continued until the scales have been checked in 500-pound notches at all weights at which the scales are used. Distillers will have scales used for weighing spirits in larger lots tested and their accuracy certified by State, county, or city departments of weights and measures at intervals of not more than six months. The storekeeper-gauger will not permit the use of any scales not so tested or which upon testing are found to be inaccurate.* (Secs. 2825, 2878, 2883, I.R.C.)

§ 184.281 *For storage in brandy deposit room.* When brandy to be temporarily stored in the brandy deposit room is gauged, the storekeeper-gauger will prepare a report thereof on Form 1520, in triplicate, one copy of which will be forwarded to the district supervisor on the same day the brandy is gauged, one copy delivered to the distiller, and the remaining copy retained as a permanent

record in the office of the storekeeper-gauger.* (Secs. 3170, 4017, I.R.C.)

§ 184.282 *Upon withdrawal from storage tanks.* When brandy is transferred to storage tanks in the brandy deposit room after it has been gauged, as provided in section 184.265, it will be regauged by weighing tank upon removal, unless it is drawn into packages and gauged.* (Sec. 2878, I.R.C.)

§ 184.283 *Removal of packages from brandy deposit room.* When the brandy is drawn from the receiving tanks into packages and temporarily stored in the brandy deposit room, as authorized herein, the packages need not be regauged upon removal, unless the storekeeper-gauger notes circumstances indicating that a package (or packages) has been tampered with, or has reason to believe that any package contains more spirits than shown by the original gauge, or materially less spirits, in which event a careful regauge will be made.*

§ 184.284 *Report of gauge.* When brandy is gauged for removal to a bonded warehouse or winery, or upon tax-payment, the storekeeper-gauger will prepare and dispose of the reports of gauge, Form 1520, as hereinafter provided.* (Sec. 4017, I.R.C.)

§ 184.285 *Pipe-line removals.* Pipe lines used for the transfer of brandy from the receiving tanks to storage tanks in the brandy deposit room or bonded warehouse or to a winery or to a railroad tank car for shipment, or from storage tanks in the brandy deposit room to a bonded warehouse or winery or to a tank car for shipment, must conform to the requirements of section 184.52, except that brandy may be transferred into a tank car by means of a hose connection, where the same is in full view of the Government officer throughout its entire length. The valves on such pipe lines shall be kept closed and locked at all times, except when necessary to be open for the transfer of spirits. The keys to all locks on the valves of pipe lines shall remain at all times in the custody of the storekeeper-gauger or the district supervisor. Brandy may be transferred by pipe line only under the immediate supervision of the storekeeper-gauger.* (Secs. 2825, 2878 (a), 2883, I.R.C.)

Marking, Branding, and Stamping of Packages

§ 184.286 *General.* The determination and marking of the weight (tare) on empty packages, and the storage of packages so marked which are not filled until the following day, shall be in accordance with provisions of the Gauging Manual. All packages of spirits when filled shall be further marked and branded as provided in the Gauging Manual; and where such packages are tax-paid, the tax-paid stamps shall be affixed thereto and canceled in the manner prescribed in such manual.* (Secs. 2808, 2878, I.R.C.)

§ 184.287 *Numbering of packages.* Packages filled with spirits at the distillery shall be serially numbered, beginning with number 1 for the first package filled and continuing in regular sequence: *Provided*, That the series in current use at existing distilleries will be continued. Where packages are filled from storage tanks in the brandy deposit room they will be numbered in sequence to the packages filled from the receiving tanks. Where there is a change in the trade name or style, or in the proprietorship of the business, the series in use at the time of such change will be continued. A new series will be used where there is a change in the type of plant; but use of the prior series will be resumed when the plant is again operated as a fruit distillery. When the serial numbers of packages filled at any distillery have reached the number 1,000,000, the distiller may, if he so desires, begin a new series, commencing with number 1 preceded or followed by a letter to distinguish it from the prior series, as 1A, 2A, etc., and when the number 1,000,000, so distinguished, is again reached the distiller may begin another series distinguished by the second letter of the alphabet, as 1B, 2B, etc., and subsequent series, distinguished by other letters of the alphabet in order, may likewise be commenced.* (Secs. 2808, 2878, I.R.C.)

§ 184.288 *Distiller to mark and brand packages.* The prescribed marks and brands peculiar to individual packages, whether the same are required to be cut, burned, imprinted, or stenciled, shall be placed upon the package by the distiller, under the supervision of the storekeeper-gauger.* (Sec. 2878 (d), I.R.C.)

§ 184.289 *Mechanical labor.* All mechanical labor pertaining to the gauging of packages of spirits at the distillery shall be performed by the distiller.* (Sec. 2878 (d), I.R.C.)

§ 184.290 *Testing of scales.* The storekeeper-gauger shall balance the scales before weighing either empty or filled packages, and will frequently test, by means of test weights provided in accordance with section 184.36, the accuracy of such scales. During the process of weighing he shall personally verify the weight of each package and record it in the proper column of Form 1520.* (Sec. 2808, I.R.C.)

§ 184.291 *Proofing of spirits.* The storekeeper-gauger shall personally take the proof of all spirits gauged and enter the same on Form 1520. The storekeeper-gauger will follow strictly the instructions set forth in the Gauging Manual respecting the proofing of spirits, in order that the proof may be accurately determined.* (Sec. 2808, I.R.C.)

§ 184.292 *Verification of marks and brands.* The storekeeper-gauger shall verify the gross weight, tare, net weight, wine gallons, proof, and proof gallons marked on the packages, by comparison with his gauge sheet, Form 1520, and

shall satisfy himself of the accuracy and correctness of the marks and brands, and stamps (if any).*

§ 184.293 *Obliteration of stamps, marks, and brands on empty packages.* When packages of brandy are emptied, all stamps, marks, and brands required to be placed thereon must be completely effaced and obliterated. Where a portion of a stamp is cut out for submission to the district supervisor, when packages are dumped for rectification or for bottling without rectification, the remnant remaining affixed to the package must be completely effaced and obliterated when the package is emptied.* (Sec. 2866, I.R.C.)

Tax-Payment in Packages

§ 184.294 *Application, Form 179.* Whenever the distiller desires to tax-pay and remove brandy in packages from the distillery, he shall execute application therefor on Form 179, in quadruplicate. Where the brandy is to be removed from receiving or storage tanks the distiller shall state, in addition to other applicable data on the form, the maximum quantity to be removed. Separate applications shall be filed for the removal of brandy from receiving or storage tanks. All copies of the application will be delivered to the storekeeper-gauger, if one is regularly assigned to the distillery; otherwise, it will be forwarded to the district supervisor, who will assign an officer to supervise the removal.*

§ 184.295 *Gauge and tax-payment.* If the brandy to be removed is in previously filled packages the storekeeper-gauger will, upon receipt of the application, inspect the packages but will not regauge the same unless the circumstances are such as to make it advisable, as provided in section 184.283. If the brandy is contained in receiving or storage tanks, it will be drawn into packages and gauged, marked, and branded. The details of the gauge or regauge, as the case may be, will be entered by the storekeeper-gauger on Form 1520, in quadruplicate. Where the brandy is removed on the original gauge the storekeeper-gauger will copy the necessary details of such gauge on Form 1520, in quadruplicate. Three copies of Form 1520, accompanied by all copies of Form 179 with the storekeeper-gauger's report thereon duly executed, will be delivered by the storekeeper-gauger to the distiller. The distiller will enter the description of the packages in the space provided therefor on Form 179, if the application covers packages not filled at the time the application was executed, and will then forward all copies of both forms to the collector of internal revenue with remittance in cash or by certified check or post office money order for the tax.* (Sec. 4017, I.R.C.)

§ 184.296 *Issuance of tax-paid stamps.* The collector will issue the tax-paid stamps. Each tax-paid stamp shall bear the signature of the collector, who shall

write or stamp thereon the date of payment of the tax, by whom paid, the number of gallons and tenths of gallons of proof spirits, serial number of cask, and location of the distillery. Facsimile signatures of collectors may be affixed by the use of hand stamps to the tax-paid stamps, care being taken to use only such ink as will neither fade nor blur. The collector will enter the serial numbers of the stamps in the appropriate spaces on all copies of Forms 179 and 1520, sign the certificate of tax-payment on each copy of Form 179, retain one copy each of Form 179 and Form 1520, and return the remaining three copies of Form 179 and two copies of Form 1520 to the distiller with the stamps.* (Sec. 2802 (a), I.R.C.)

§ 184.297 *Removal of brandy.* The distiller shall immediately deliver all copies of Form 179 and Form 1520, with the tax-paid stamps, to the storekeeper-gauger, who will verify the data thereon with his retained copy of Form 1520 and, if no discrepancies are found, he will note the serial numbers of the stamps on the retained copy of Form 1520, and sign and return the stamps to the distiller, who will stamp, mark, and brand the packages, as provided in the Gauging Manual, after which he will remove the brandy immediately. When the brandy has been removed, the storekeeper-gauger will execute the statement of the date of withdrawal on the three copies of Form 179, retain one copy each of Form 179 and Form 1520, deliver one copy of each to the distiller, and forward one copy of each to the district supervisor.* (Secs. 2878, 2883, 3170, I.R.C.)

Tax-Payment in Railroad Tank Cars

§ 184.298 *Application, Form 179.* Whenever the distiller desires to tax-pay and remove brandy from the distillery in railroad tank cars, he shall execute application therefor on Form 179, in quadruplicate. The distiller shall state, in addition to the other applicable data on the form, the maximum quantity to be withdrawn and that transportation is to be by tank car. All copies of Form 179 shall be delivered to the storekeeper-gauger, whereupon the brandy will be run into a weighing tank and gauged for removal. The storekeeper-gauger shall enter the details of the gauge on Form 1520, in quintuplicate. The proof at which the brandy was distilled and the number and name or symbols of the owner of the tank car shall, in every instance, be noted by the storekeeper-gauger on Form 1520. The storekeeper-gauger will execute his report on each copy of Form 179 and will return all copies thereof, with four copies of Form 1520 attached, to the distiller, who will enter in the space provided therefor on each copy of Form 179 the description of the brandy gauged.* (Secs. 2878, 2883, I.R.C.)

§ 184.299 *Application for certificate of tax-payment, Form 1594.* The distiller will forward all copies of Form 179 and

Form 1520, with Form 1594, "Application for Collector's Certificate of Tax-Payment of Distilled Spirits for Shipment in Tank Cars," in duplicate if the vendee is located in the same supervisory district and in triplicate if the vendee is located in a different supervisory district, accompanied by proper remittance for the tax, to the collector of internal revenue. The collector may in his discretion accept uncertified checks in payment of the tax on brandy contained in tank cars where certificates are issued in lieu of stamps.* (Secs. 2878, 2883, I.R.C.)

§ 184.300 *Certificate of tax-payment, Form 1595.* The collector will note the tax-payment in the columns on all copies of Form 179 and Form 1520 provided for entering the serial numbers of tax-paid stamps, execute his certificate of tax-payment on Form 179, and issue Form 1595, "Collector's Certificate of Tax-Payment of Distilled Spirits for Shipment in Tank Cars." The collector will fill in all the required data in the blank spaces on the certificate, except those provided in the lower left corner for the verification of the storekeeper-gauger, and shall date and sign the certificate, in the same manner as a tax-paid stamp is required by section 184.296 to be filled in and dated and signed. This certificate is not negotiable and shall not be used on any tank car other than the one described therein. The collector will enter on the original and the copy or copies of Form 1594, in the space provided, the serial number, date, and amount of the certificate issued. The collector will retain one copy of each Form 179 and Form 1520, and the original copy of Form 1594. He will mail or deliver the certificate (Form 1595) and the original and remaining copies of Form 179 and Form 1520 to the vendor or his designated agent, in accordance with the vendor's request in Form 1594. The collector will send one copy of the application (Form 1594) to the district supervisor. Where the vendee is located in a different supervisory district, the collector will send the remaining copy of Form 1594 to the supervisor of the district in which the vendee is located.* (Secs. 2878, 2883, I.R.C.)

§ 184.301 *Route board.* Railroad tank cars used for transportation of tax-paid brandy must be equipped with a route board at least 10 by 12 inches in size, to which Form 1595 can be attached. Such board shall be of substantial material and shall be affixed permanently and securely to the tank car by roundheaded or carriage bolts, nutted and riveted, battered, or welded.* (Secs. 2878, 2883, I.R.C.)

§ 184.302 *Bill of lading.* The distiller shall incorporate in the bill of lading a description of Form 1595 as follows:

Form 1595, "Collector's Certificate of Tax-Payment of Distilled Spirits for Shipment in Tank Cars"

Serial No.	Owner and No. of car.
Vendor	Address
Vendee	Address

* (Secs. 2878, 2883, I.R.C.)

§ 184.303 *Storekeeper-gauger's verification.* The distiller shall give the certificate of tax-payment (Form 1595), the bill of lading, and all copies of Form 179 and Form 1520 to the storekeeper-gauger at the distillery. The storekeeper-gauger will verify the contents of the tank car and the description of Form 1595 in the bill of lading, determine the security of the route board, and date and sign the certificate in the space provided therefor. The distiller shall then affix the certificate to the route board in the presence of the storekeeper-gauger. The certificate must be securely affixed to the route board with a good adhesive and with a tack in each corner, after which it will be canceled in the same manner as a tax-paid stamp after attachment to a package, and covered with a coating of transparent shellac, varnish, or lacquer, to prevent its easy removal or alteration.* (Secs. 2878, 2883, I.R.C.)

§ 184.304 *Release of tank car.* When the certificate of tax-payment has been affixed to the route board and canceled, the storekeeper-gauger will return the bill of lading to the distiller, release the tank car for shipment, and note on all copies of Form 1520 the date of the release of the tank car. The storekeeper-gauger will forward one copy of Form 179 and Form 1520 to the district supervisor, retain one copy of each form, and deliver one copy of Form 179 and two copies of Form 1520 to the distiller, who will forward one copy of Form 1520 to the vendee.* (Secs. 2878, 2883, 3170, I.R.C.)

Procedure When Tank Car is Emptied

§ 184.305 *Scalping certificate.* When brandy is received in a tank car by the proprietor of a rectifying plant, a tax-paid bottling house, or other vendee authorized to receive tax-paid brandy in tank cars, the vendee shall at the time the car is emptied scalp the certificate of tax-payment, Form 1595, by cutting out all of that portion of the certificate within the border. The vendee shall then send the scalped portion of the certificate to the supervisor of the district in which the vendee is located, and shall obliterate the remainder of the certificate. If the tank car is received without the certificate attached thereto, the vendee shall note such fact on the bill of lading and immediately notify the district supervisor, who will cause such inquiry to be made respecting the shipment and receipt of the car as he may deem appropriate. Where a tank car with the certificate missing is received at a plant where a storekeeper-gauger is assigned, such storekeeper-gauger will furnish a complete report to the district supervisor.* (Secs. 2878, 2883, I.R.C.)

§ 184.306 *Vendee's use of Form 1520.* The report of gauge, Form 1520, sent to the vendee by the vendor shall be attached to the storage tank in the rectifying plant, tax-paid bottling house, or premises of other vendee authorized to receive the brandy. The proprietor shall

enter the date and quantity of removals from the storage tank in the blank space on such Form 1520. The report of gauge shall be kept on the tank until such time as the quantity covered by such report has been withdrawn from the tank. The report shall then be filed by the proprietor available for the inspection by Government officers. If the spirits are transferred directly from the tank car into a bottling tank, the vendee shall make a notation to that effect on the Form 1520 and file it.*

§ 184.307 *Comparison of scalped certificate with application.* The district supervisor will compare the scalped certificate with the copy of the application as to names of vendor and vendee, number of gallons of brandy, the amount of tax, etc., and investigate any discrepancy. He will then send the copy of the application to the Commissioner, and, where there is a discrepancy, a report of his findings relative thereto.*

Deposit in Warehouse Operated on Distillery Premises by the Distiller

§ 184.308 *Gauge of brandy, Form 1520.* Brandy which is to be entered for deposit in an internal revenue bonded warehouse operated on the distillery premises by the distiller shall be drawn into packages and gauged, marked, and branded, and then immediately deposited in such warehouse, or shall be run into a weighing tank and immediately gauged and transferred by pipe line into storage tanks in such warehouse, except that brandy so transferred by pipe line may be gauged in the warehouse as provided in section 184.265 (f). The brandy will be transferred to the warehouse under the immediate supervision of the storekeeper-gauger. Where brandy intended for the fortification of wine is transferred into warehouse storage tanks, the words "For Fortification of Wine" must be plainly and legibly stenciled upon such tanks, as provided in the regulations governing the warehousing of distilled spirits. The storekeeper-gauger will enter the details of the gauge on Form 1520, in triplicate. He will also note on each copy of Form 1520 the proof at which the brandy was distilled and, if transferred to a warehouse storage tank, the serial number thereof. Upon completion of the form the storekeeper-gauger will deliver all copies thereof to the distiller for the execution of his entry of the brandy for deposit.* (Secs. 2878, 2883, 4017, I.R.C.)

§ 184.309 *Distiller's entry for deposit.* The distiller's entry for deposit shall be executed in the following form:

(Date)
The distilled spirits described herein are hereby entered for deposit in Internal Revenue Bonded Warehouse No. _____, State of _____.

(Distiller)

The entry shall be executed on the same date that the spirits are removed from the distillery. If brandy intended for

the fortification of wine is transferred to storage tanks, the distiller shall make notation to that effect in connection with the entry for deposit. After execution of the entry the distiller shall return the three copies of Form 1520 to the storekeeper-gauger, who will retain one copy as a permanent record of the deposit of the spirits in the warehouse, forward one copy to the district supervisor, and deliver one copy to the distiller.* (Secs. 2879 (a), 3170, I.R.C.)

§ 184.310 *Mixing of different spirits prohibited.* Brandy or fruit spirits produced by two or more distillers shall not be mingled in a storage tank; nor shall brandy produced from one kind of fruit or berry be so mingled with brandy or fruit spirits produced from another kind of fruit or berry; nor shall fruit spirits produced from one kind of fruit or berry for the fortification of wine be so mingled with fruit spirits produced from another kind of fruit or berry; nor shall brandy and fruit spirits distilled from the same kind of fruit or berry, or brandies which differ in kind according to the standards of identity established by the Federal Alcohol Administration, be mingled in a storage tank; nor shall brandy distilled from the same kind of fruit or berry during different distilling seasons, or at proofs differing more than 10 degrees, be so mingled.* (Sec. 3254 (g), I.R.C.)

§ 184.311 *Sufficiency of bond.* Where the bond covering the operation of an internal revenue bonded warehouse on the distillery premises is given in less than the maximum penal sum of \$200,000, the district supervisor will inform the storekeeper-gauger in charge of the warehouse of the penal sum of the warehouse bond on file, and the storekeeper-gauger will see that the quantity of brandy deposited in the warehouse is within the limits of the bond.*

Deposit in Warehouse Operated by the Distiller on Contiguous Premises

§ 184.312 *Procedure.* Where the distiller operates an internal revenue bonded warehouse on premises contiguous to the distillery premises, and the location of the warehouse is such that the storekeeper-gaugers assigned to the distillery and the warehouse are able to maintain the same supervision of the deposit in such warehouse of brandy produced at the distillery as is required in the case of the deposit in a warehouse on the distillery premises of brandy produced at such distillery, the distiller may deposit brandy in packages and other approved containers in such contiguous warehouse in accordance with the procedure hereinbefore prescribed for the deposit of brandy in an internal revenue bonded warehouse operated by the distiller on the distillery premises, except that where separate Government offices are maintained for the distillery and the warehouse an extra copy of Form 1520 will be prepared and one copy of such form will be filed in each Government office. When brandy is so de-

posited, the storekeeper-gauger assigned to the distillery will in each instance deliver directly to the storekeeper-gauger at the warehouse a copy of the Form 1520 covering the gauge of the packages, and the storekeeper-gauger at the warehouse will see that all of the packages are duly deposited in the warehouse. Brandy may not be transferred by pipe line from the distillery to such contiguous warehouse.* (Secs. 2878, 2883, I.R.C.)

§ 184.313 *Sufficiency of bond.* Where the bond covering operation of an internal revenue bonded warehouse on the premises contiguous to the distillery premises is given in less than the maximum penal sum of \$200,000, and brandy produced at the distillery is deposited in such warehouse in accordance with the procedure prescribed in the preceding section, the district supervisor will inform the storekeeper-gauger in charge of the warehouse of the penal sum of the warehouse bond on file, and the storekeeper-gauger will see that the quantity of spirits deposited in the warehouse is within the limits of the bond.*

Transfer to Warehouse off Distillery Premises in Same District, Except Warehouse Operated by Distiller on Contiguous Premises

§ 184.314 *Application, Form 236.* Where brandy is to be transferred to and entered for deposit in an internal revenue bonded warehouse located off the distillery premises but in the same supervisory district, and such warehouse is not operated by the distiller on premises contiguous to the distillery premises, the proprietor of the receiving warehouse shall execute an application for the transfer of the brandy on Form 236, in quintuplicate. The applicant shall enter all applicable data indicated by the form. Where brandy is to be transferred in tank cars or in packages not yet filled, the applicant will state the maximum quantity in tax gallons to be transferred in lieu of the exact number of tax gallons, the date of the original entry for deposit, the date of original gauge (where such is required), and the serial numbers of the packages, and such details will be filled in by the storekeeper-gauger at the time of shipment. All copies of the form will be forwarded by the applicant to the district supervisor.* (Secs. 2878, 2833, I.R.C.)

§ 184.315 *Certificate of sufficiency of bond.* If the applicant has on file a good and sufficient bond, the district supervisor will certify to the sufficiency of the bond, and direct the storekeeper-gauger to gauge the brandy and release the same for transportation to the warehouse. The district supervisor will then forward all copies to the storekeeper-gauger at the distillery.*

§ 184.316 *Report of gauge.* Unless previously packaged, the brandy will be drawn from the receiving or storage tanks into packages, gauged, marked and branded, or into a weighing tank, gauged,

and run by pipe line into a properly equipped railroad tank car. The quantity transferred shall not exceed the maximum named in the application. The details of the gauge will be entered by the storekeeper-gauger on Form 1520, in quintuplicate. If the packages to be transferred were previously filled, the storekeeper-gauger will inspect them but will not regauge the same, unless the circumstances are such as to make a regauge advisable. Where packages previously filled are removed on the filling gauge, the storekeeper-gauger will prepare Form 1520, in quintuplicate, copying the details from the report of the filling gauge.* (Secs. 2878, 2883, 4017, I.R.C.)

§ 184.317 *Markings on tank car.* Each railroad tank car used to transport brandy in bond must have permanently and legibly marked or painted thereon its number, capacity in wine gallons, and the name or symbols of the owner, and must be so constructed that all openings may be closed and securely locked, and no such tank car may be used for the transportation of brandy in bond unless it is so locked.* (Secs. 2878, 2883, I.R.C.)

§ 184.318 *Locks and seals.* Seal locks, to be furnished by the distiller, and seals for the same, to be furnished by the Government, will be used for locking the tank car, and such locks will be attached as soon as the car is filled. The key of each seal lock so used will be forwarded on the day of shipment by the storekeeper-gauger at the distillery to the storekeeper-gauger at the receiving warehouse. If no storekeeper-gauger is regularly assigned to the warehouse, the district supervisor will direct that the keys be forwarded to him. The locks and keys will be promptly returned to the distiller by the storekeeper-gauger at the warehouse where the spirits are tax-paid.* (Secs. 2878, 2883, I.R.C.)

§ 184.319 *Inspection of tank car.* Upon receiving an order to gauge brandy to be transferred in bond in a railroad tank car, the storekeeper-gauger at the distillery will inspect the car to see that the dome may be locked with a seal lock when closed, and that all other openings of the car may be closed and securely fastened on the inside or locked in like manner. If the car is not so constructed, the officer will not permit it to be filled.* (Secs. 2878, 2883, I.R.C.)

§ 184.320 *Filling of tank car.* The tank car must be filled in the immediate presence of the storekeeper-gauger. The pipe line from the distillery weighing tank to the tank car must be in full view of the officer and must not be connected or used except in his presence. The officer will seal-lock the car as soon as it is filled. The officer will enter on Form 1520, covering the gauge of the brandy, the name of the owner and the serial number of the car, the serial number of the lock seal or seals, the destination, and the date of shipment; for example: "Withdrawn in U. P. tank car No. 1643, lock seal No. 36457, for transfer to in-

ternal revenue bonded warehouse No. 56, Los Angeles, California. Billed out 4:30 p. m., July 30, 1938."* (Secs. 2878, 2883, I.R.C.)

§ 184.321 *Route board.* Railroad tank cars used for the transportation of brandy in bond must be equipped with a route board at least 10 by 12 inches in size. Such board shall be of substantial material and shall be affixed permanently and securely to the tank car by roundheaded or carriage bolts, nutted and riveted, battered or welded.* (Secs. 2878, 2883, I.R.C.)

§ 184.322 *Label to be attached.* When brandy is shipped in bond in a railroad tank car, a label dated and signed by the storekeeper-gauger showing that the brandy is shipped in bond and giving the name, registered number and location (city or town and State) of the distillery from which shipped, and the warehouse to which shipped, shall be securely attached to the route board, where it may be readily examined by Government officers. The label, which will be furnished by the distiller, will be in substantially the following form:

Shipped in bond by
CALIFORNIA GRAPE COMPANY
F. D. No. 80, Fresno, Calif.

to
FRISCO WAREHOUSE COMPANY
I. R. B. W. No. 50, San Francisco, Calif.

(Date) (Storekeeper-Gauger)

*(Secs. 2878, 2883, I.R.C.)

§ 184.323 *Distiller's entry for deposit.* When the brandy has been packaged or run into a railroad tank car and such tank car seal-locked, the storekeeper-gauger will deliver all copies of Form 1520 to the distiller, who shall execute on each copy his entry of the brandy for deposit. The distiller's entry for deposit shall be executed on the same date that the brandy is removed from the distillery. After executing the entry, the distiller shall immediately return all copies of the form to the storekeeper-gauger, who upon receipt of all such forms and Form 236, duly certified by the district supervisor as to the sufficiency of the consignee's bond, will release the brandy for shipment.* (Sec. 2879 (a), I.R.C.)

§ 184.324 *Storekeeper-gauger's certificate.* Upon removal of the brandy, the storekeeper-gauger will execute his certificate of gauge and removal on Form 236. The storekeeper-gauger will attach one copy of Form 1520 to each copy of Form 236, and will retain one copy of each form, furnish one copy of each to the distiller, and forward one copy of each to the proprietor of the receiving warehouse and two copies of each to the storekeeper-gauger at the warehouse.* (Secs. 2878, 2883, 3170, I.R.C.)

§ 184.325 *Examination of packages at warehouse.* The storekeeper-gauger at the warehouse will examine the shipment upon its arrival. Where packages of brandy are received bearing evidence of having sustained losses in transit, the

storekeeper-gauger will observe the following procedure in examining the packages:

(1) Weigh and proof each barrel which appears to have sustained a loss by casualty or theft while in transit;

(2) Examine the condition of the cooperage of each such package;

(3) Note on the Form 1520 the serial number, weight, and tax-gallon contents of each barrel so regauged, the condition of the cooperage and whether or not, in the opinion of the officer, the loss of the spirits occurred while the package was in transit;

(4) State, if possible, the general condition of all the packages in the consignment at the time of their arrival at the warehouse, and, in the event the storekeeper-gauger is present when the car or other conveyance used in transporting the spirits is opened, whether in his opinion proper precautions were taken by the shipper in loading the spirits to safeguard the packages from the usual transportation hazards. The storekeeper-gauger will furnish in connection with his opinion a statement of the facts upon which it is based.* (Secs. 2878, 2883, I.R.C.)

§ 184.326 *Examination of tank car at warehouse.* Where the examination of a railroad tank car of brandy upon its arrival at the warehouse reveals evidence of loss by casualty or theft, the storekeeper-gauger will ascertain the quantity by regauging the contents, and will make a report of his examination and regauge on Form 1520 similar to that required in the case of packages regauged. The brandy may be removed from the tank car for regauging, but upon completion of such regauging, the brandy will be immediately run back into the tank car, and such tank car seal-locked pending tax-payment or transfer to another bonded warehouse. The transfer of brandy from a tank car for regauging, and the return of the same, shall be under the immediate supervision of the storekeeper-gauger.* (Secs. 2878, 2883, I.R.C.)

§ 184.327 *Storekeeper-gauger's receipt.* After the brandy has been deposited in the receiving warehouse, the storekeeper-gauger will execute his receipt on Form 236, retain one copy each of Form 236 and Form 1520 and forward one copy of each form to the district supervisor.* (Secs. 2878, 2883, I.R.C.)

Transfer to Warehouse off Distillery Premises in Different District

§ 184.328 *Application, Form 236.* Where brandy is to be entered for deposit in an internal revenue bonded warehouse located in a different supervisory district than the distillery, the proprietor of the warehouse shall file with the supervisor of his district an application for the transfer of the brandy on Form 236, in sextuplet, in the manner indicated in section 184.314.* (Secs. 2878, 2883, I.R.C.)

§ 184.329 *Certificate of sufficiency of bond.* If the applicant has on file a good and sufficient bond, the district supervisor will execute the certificate to that effect on Form 236, and will transmit all copies to the supervisor of the district in which the distillery is located. The supervisor of such district will execute his order, directing the storekeeper-gauger to release the brandy, after gauging or inspection, for transportation to the warehouse, and will then forward all copies to the storekeeper-gauger at the distillery.*

§ 184.330 *Report of gauge.* Unless previously packaged, the brandy will be drawn from the receiving or storage tanks into casks or packages, gauged, marked and branded, or into a weighing tank, gauged, and run by pipe line into a property equipment railroad tank car. The details of the gauge will be entered by the storekeeper-gauger on Form 1520, in sextuplet. The quantity transferred shall not exceed the quantity specified in the application. If the packages to be transferred were previously filled, the storekeeper-gauger will inspect them but will not regauge the same, unless the circumstances are such as to make a regauge advisable. Where previously filled packages are removed on the filling gauge, the storekeeper-gauger will prepare Form 1520, in sextuplet, copying the details from the report of the filling gauge.* (Secs. 2878, 2883, 4017, I.R.C.)

§ 184.331 *Tank car requirements.* If the brandy is to be transported in a railroad tank car, such tank car must be constructed, marked, inspected, filled, locked, and labelled as provided in sections 184.317 to 184.322, inclusive.* (Secs. 2878, 2883, I.R.C.)

§ 184.332 *Distiller's entry for deposit.* When the brandy has been packaged or run into a railroad tank car and such tank car seal-locked, the storekeeper-gauger will deliver all copies of Form 1520 to the distiller, who shall execute thereon his entry for deposit. The distiller's entry shall be executed on the same date that the spirits are removed from the distillery. After executing the entry, the distiller shall immediately return all copies of the form to the storekeeper-gauger, who, upon receipt of such forms and Form 236, duly certified by the district supervisor as to the sufficiency of the consignee's bond, will release the brandy for shipment.* (Sec. 2879 (a), I.R.C.)

§ 184.333 *Storekeeper-gauger's certificate.* Upon removal of the brandy, the storekeeper-gauger will execute his certificate of gauge and removal on Form 236. The storekeeper-gauger will attach one copy of Form 1520 to each copy of Form 236, and will retain one copy of each form, deliver one copy of each to the distiller, forward one copy of each to the proprietor of the warehouse, and three copies of each to the storekeeper-gauger at the warehouse.* (Secs. 2878, 2883, I.R.C.)

§ 184.334 *Receipt of brandy at warehouse.* When the brandy has been received and examined, and any losses or discrepancies ascertained and noted, as provided in sections 184.325 and 184.326, the storekeeper-gauger at the warehouse will execute his receipt on Form 236, retain one copy each of Form 236 and Form 1520, and forward two copies of each form to the supervisor of his district. The district supervisor will retain one copy of each form and forward the remaining copy of each to the supervisor of the district from which the brandy was transferred.* (Secs. 2878, 2883, 3170, I.R.C.)

Kinds of Brandies That May Be Removed for Fortification of Wine

§ 184.335 *Kinds.* The kinds of brandies that may be removed for the fortification of wine are grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, and apple brandy, produced in accordance with the provisions of section 184.166. No brandy produced otherwise than as specified in such section may be removed for fortification. Brandy produced from grape cheese and a sugar solution may not be removed for the fortification of wine.* (Secs. 3031 (a), 3033, I.R.C.)

Removal of Brandy in Packages for Fortification of Wine

§ 184.336 *Application, Form 257.* Where it is desired to remove brandy in packages from a fruit distillery for fortification of wine, application will be made by the winemaker on Form 257, "Application for the Removal of Brandy for Fortification of Wine from Fruit Distilleries and Internal Revenue Bonded Warehouses," to the supervisor of the district in which the winery is located. The application shall be filed in triplicate where the winery and the distillery are in the same supervisory district, and in quadruplicate where they are in different districts. The same application may not include brandy from more than one distillery, nor two or more lots to be removed from the same distillery at different times, except where the distillery is contiguous to the winery, as hereinafter provided.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.337 *Action of district supervisor.* If the application is in proper order and the bond of the winemaker is sufficient to cover the brandy to be procured, the district supervisor will (1) where the distillery is located in another supervisory district, execute his certificate on the form and forward all four copies to the supervisor of such district, who will in turn execute his order on the form and deliver all four copies to the storekeeper-gauger designated to gauge the brandy; and, (2) where the distillery is in the same district, execute his certificate and order on the form and deliver all three copies to the storekeeper-gauger design-

nated to gauge the brandy.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.338 *Gauge of brandy.* The storekeeper-gauger receiving the order to gauge will deliver all copies of Form 257 to the distiller, who will execute his description of the brandy to be gauged, on all copies of the form and return them to the officer. If the brandy to be removed is contained in tanks, the designated packages will be filled, gauged, and marked and branded in accordance with the Gauging Manual. If the packages were previously filled, they will be marked as required, and removed on the original gauge, unless a regauge is deemed advisable. The storekeeper-gauger will prepare four copies of the report of gauge, Form 1520, where the brandy is to be removed at one time to the fortifying room of a contiguous winery, five copies in all other instances where brandy is removed to a winery located in the same supervisory district, and six copies where the winery is located in another district. The storekeeper-gauger will attach one copy of Form 1520 to each copy of Form 257 and will note on the extra copies of Form 1520 the name, registered number, and address of the winery to which the brandy is to be shipped. No greater quantity of brandy may be gauged or withdrawn than stated in the district supervisor's order.* (Secs. 2878, 3031 (a), 3033, I.R.C.)

§ 184.339 *Distillery and winery on contiguous premises.* Where the distillery and winery are located on contiguous premises, and the storekeeper-gauger at the distillery is charged with supervising the deposit of the brandy in the fortifying room, he will, upon deposit of the brandy, execute his certificates on all copies of Form 257, retain one copy, with Form 1520 attached, at the distillery and one copy at the winery, and forward one copy to the district supervisor. The extra copy of Form 1520 will be delivered to the distiller.* (Secs. 3031 (a), 3033, 3170, 4017, I.R.C.)

§ 184.340 *Distillery and winery not on contiguous premises.* Where the distillery and winery are not located on contiguous premises and the storekeeper-gauger at the distillery is not charged with supervising the deposit of the brandy in the fortifying room of the winery, he will, upon removal of the brandy execute his certificate of gauge and removal on all copies of Form 257, retain one copy with a copy of Form 1520 attached, and immediately forward the remaining copies (two or three, as the case may be), with a copy of Form 1520 attached to each, to the winemaker. The storekeeper-gauger will forward one of the extra copies of Form 1520 to the district supervisor and will deliver one copy to the distiller. When the brandy is received at the winery, the officer detailed to duty thereat will examine the packages, supervise their deposit in the fortifying room, and complete and dispose of the forms in accordance with the provi-

sions of Regulations No. 7.* (Secs. 3031 (a), 3033, 3170, 4017, I.R.C.)

§ 184.341 *Gauging officer's certificate of monthly deposits in contiguous winery.* If the distillery and winery are located on contiguous premises and brandy is to be transferred to the winery from time to time during the month under supervision of an officer, the winemaker's application on Form 257, and the district supervisor's order to gauge on the form, may cover all brandy to be transferred to the winery during the month. If the officer gauging the brandy supervises its transfer to and deposit in the fortifying room, he will certify to the deposit on each copy of Form 1520 as the brandy is deposited, attach one copy thereof to each copy of Form 257, forward one of the extra copies of Form 1520 to the district supervisor, and deliver one copy to the distiller. At the close of the month the storekeeper-gauger will execute his certificates on Form 257, retain one copy thereof, with a copy of each Form 1520 attached, at the distillery as a permanent record, and one copy, similarly completed, at the winery for the same purpose, and forward the other copy to the district supervisor.* (Secs. 3031 (a), 3033, 3170, 4017, I.R.C.)

§ 184.342 *Winery officer's certificate of monthly deposits in contiguous winery.* When brandy is transferred in accordance with section 184.341 and a storekeeper-gauger is separately assigned to duty at the winery, the storekeeper-gauger at the distillery will retain one copy of Form 257 and attach one copy of each Form 1520 thereto as the brandy is gauged, forward one of the extra copies of Form 1520 to the district supervisor, give one of such copies of Form 1520 to the distiller, and deliver the other two copies of Form 257 and Form 1520 to the storekeeper-gauger at the winery, who will certify to the deposit on Form 1520 as the brandy is received and deposited in the fortifying room, and attach a copy of Form 1520 to each copy of Form 257. At the close of the month the storekeeper-gauger at the distillery will execute his certificate of gauge and removal on all three copies of Form 257 and the storekeeper-gauger at the winery will execute his certificate of receipt on all copies of the form. The forms will then be disposed of as provided in the preceding section.* (Secs. 3031 (a), 3033, I.R.C.)

Removal of Brandy by Pipe Line for the Fortification of Wine

§ 184.343 *Application, Form 257.* Where it is desired to transfer brandy from the receiving tanks or from storage tanks in the brandy deposit room by pipe line to the fortifying rooms of wineries on contiguous premises, application will be made by the winemaker on Form 257, in triplicate, in the same manner as when brandy is to be transferred in packages, as prescribed in section 184.336. The district supervisor will likewise give his order to gauge, as prescribed in section

184.337, the distiller will indicate the brandy to be gauged, as prescribed in section 184.338, and the storekeeper-gauger designated to gauge the brandy will make his report of gauge and execute his certificates and complete and dispose of Forms 257 and Forms 1520, as hereinbefore prescribed in the case of removal in packages. Notation of transfer by pipe line will be made by the storekeeper-gauger on each Form 1520.* (Secs. 3031 (a), 3033, 3170, 4017, I.R.C.)

§ 184.344 *Gauge of brandy.* The brandy will be gauged in weighing tanks in the distillery and run directly from such tanks to fortifying tanks or brandy storage tanks in the fortifying room of the winery, except that where no weighing tank is provided in the distillery, the brandy may be gauged in a weighing tank in the fortifying room, in which case the brandy will be run direct from the receiving tanks in the distillery to the weighing tank in the fortifying room.* (Secs. 2878, 3031 (a), 3033, I.R.C.)

§ 184.345 *Fortifying room not having weighing tank.* Where a weighing tank is not provided in the fortifying room, the brandy may be transferred thereto by pipe line only for immediate use, and only in such quantities as are necessary to fortify a given lot of wine. In such cases the wine to be fortified will be run into the fortifying tank and the required quantity of brandy to fortify the wine will be gauged in the distillery and run directly into the fortifying tank containing the wine.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.346 *Deposit in locked tanks.* The pipe line must empty into a closed tank, which will be locked with a Government lock while brandy is being discharged therein, or remains therein. Where the brandy is run directly by pipe line into the fortifying tank, such tank must be fitted with a locked cover. If, however, the weighing tank is located in the fortifying room, it is not necessary that the fortifying tanks be fitted with locked covers.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.347 *Supervision.* The brandy will be transferred under the immediate supervision of the storekeeper-gauger. The officer supervising the deposit of the brandy in the fortifying room of the winery will see that the pipe line is properly connected with the tank into which the brandy is to be transferred before the valve permitting the flow of brandy to such tank is opened. The storekeeper-gauger will also see that the valves controlling the flow of brandy into or out of tanks are locked with Government locks at all times, except when necessary to be open for the transfer of brandy. The keys will remain in the custody of the storekeeper-gauger or, if no storekeeper-gauger is assigned to the distillery, in the custody of the district supervisor or other officer designated by him. The officer will also see that no pipe line is used for the transfer of brandy unless

it has been inspected, and has been approved by the district supervisor.* (Secs. 3031 (a), 3033, I.R.C.)

Removal of Brandy in Tank Cars for Fortification of Wine

§ 184.348 *Application, Form 257.* Where it is desired to remove brandy in railroad tank cars to the fortifying room of a winery, application will be made by the winemaker on Form 257 in the same manner as when brandy is removed in packages, as prescribed in section 184.336. The district supervisor will likewise give the order to gauge, as prescribed in section 184.337, the distiller will indicate the brandy to be gauged, as prescribed in section 184.338, and the storekeeper-gauger designated to gauge the brandy will make his report of gauge and execute his certificate of gauge and removal and dispose of Forms 257 and Forms 1520, as hereinbefore prescribed in case of removal in packages. The winemaker will state on his application that the brandy is to be transported by railroad tank car.* (Secs. 3031 (a), 3033, 3170, 4017, I.R.C.)

§ 184.349 *Tank car requirements.* Railroad tank cars used to transport brandy for the fortification of wine must be constructed, marked, inspected, filled, and seal-locked in the same manner as railroad tank cars used to transport brandy to an internal revenue bonded warehouse. (See sections 184.317 to 184.321.) The key of each seal lock used in locking the tank car will be forwarded on the day of shipment by the storekeeper-gauger at the distillery to the storekeeper-gauger, if any, at the winery. Where no officer is regularly assigned at the winery when the brandy is shipped, the district supervisor will direct that the keys be forwarded to him. All locks and keys will be returned by the officer at the winery to the distillery from which the brandy was shipped.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.350 *Notation on Form 1520.* When the tank car is shipped, the storekeeper-gauger will enter on Form 1520, covering the gauge of the brandy, the name of the owner and the serial number of the car, the serial number of the lock seal or seals, the destination, and the date of shipment; for example: "Withdrawn in U. P. tank car No. 1643, lock seal No. 36437, for transfer to winery No. 46, Los Angeles, Calif., for fortification of wine. Billed out 4:30 p. m., September 10, 1938."* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.351 *Label to be attached.* When brandy is shipped in bond in a railroad tank car to a winery for fortification of wine, a label, dated and signed by the storekeeper-gauger, showing that the brandy is shipped in bond for fortification and giving the name, registered number, and location (city or town and State) of the distillery from which shipped, and the winery to which shipped, shall be securely attached to

the route board of the car, where it may be readily examined by Government officers. The label, which will be furnished by the distiller, will be in substantially the following form:

Shipped in bond by
CALIFORNIA GRAPE COMPANY
F. D. No. 80, St. Helena, Calif., 14th Dist.,
to
WESTERN WINE COMPANY
B. W. No. 50, Santa Rosa, Calif., 14th Dist.
For fortification of wine

(Date) (Storekeeper-gauger)

This label will be scraped and obliterated immediately the tank car is emptied.* (Secs. 3031 (a), 3033, I.R.C.)

§ 184.352 *Deposit of brandy in fortifying room.* The examination of the tank car upon arrival at the winery, the unloading thereof, the deposit of the brandy in the fortifying room, and the completion and disposition of Form 257 by the storekeeper-gauger at the winery, will be in accordance with the provisions of Article LV of Regulations No. 7 (26 CFR, Part 178).* (Secs. 3031 (a), 3033, I.R.C.)

Removal of Brandy, Free of Tax, for Exportation

§ 184.353 *Tank cars.* Brandy of not less than 180 degrees of proof may be drawn from the receiving tanks at the distillery and transferred through weighing tanks to tank cars for export therein, free of tax. The tank cars must be so constructed that all openings may be securely closed and sealed.* (Sec. 2888, I.R.C.)

§ 184.354 *Procedure.* Where the distiller desires to remove brandy of not less than 180 degrees of proof, free of tax, from the distillery receiving tanks for exportation in tank cars, he will file application on Form 206, in quadruplicate, and bond on Form 547, 548, 657, or 658, as the case may be, in triplicate, with the district supervisor, and otherwise comply with all applicable requirements of the regulations governing the withdrawal of distilled spirits from internal revenue bonded warehouses, free of tax, for exportation, which regulations are hereby extended to cover the exportation, free of tax, of brandy from the distillery, as authorized herein.* (Sec. 2888, I.R.C.)

Records

§ 184.355 *Distiller's records.* The distiller shall enter all removals of brandy from the distillery on his monthly return, Form 15, as provided in Article XXXVII.* (Sec. 2841 (a), I.R.C.)

§ 184.356 *District supervisor's account.* The district supervisor will enter the removal of brandy from fruit distilleries on Form 412, as provided in Article XXXVIII.*

ARTICLE XXVI—LOSSES OF BRANDY IN DISTILLERY

Losses by Leakage and Evaporation

§ 184.357 *No allowance provided.* No allowance can be made under section

2901 (a), I.R.C., or any other provision of law, for losses of brandy by leakage or evaporation from receiving tanks in the distillery or from storage tanks in the brandy deposit room, and the tax must be paid on all such losses: *Provided, however,* That where there is a deficiency of not over one-half of 1 percent on such tanks the same will be ascribed to variation in gauge, in the absence of evidence to the contrary, and no tax will be collected thereon.*

Losses by Casualty

§ 184.358 *In receiving tanks.* The tax on distilled spirits destroyed by accidental fire or other casualty without any fraud, collusion, or negligence of the owner thereof, after the same shall have been drawn from the distillery receiving tanks and removed to an internal revenue bonded warehouse, may be remitted to the extent that the owner is not indemnified against such tax by a valid claim of insurance for a sum greater than the actual value of the spirits, less the tax.* (Sec. 2901 (b), I.R.C.)

§ 184.359 *In process of manufacture.* The tax on distilled spirits which are destroyed on the distillery premises by accidental fire or other casualty without any fraud, collusion, or negligence of the distiller, in the process of manufacture or distillation, or before removal to an internal revenue bonded warehouse, may be remitted.* (Sec. 2847, I.R.C.)

§ 184.360 *Claim for losses.* No special forms have been provided for use by claimants in presenting claims for remission of tax. Such claims may be made on letter or legal size paper, but must be in affidavit form, in duplicate, and the claimant must furnish the following information:

(a) The name of the distiller and the registered number and location of the distillery;

(b) The serial numbers of the receiving tanks, storage tanks, or other containers from which the spirits were lost;

(c) The quantity of spirits destroyed by accidental fire or other casualty from each tank or other container and the total quantity of spirits covered by the claim;

(d) The total amount of tax for which the claim is filed;

(e) The date of loss or, if such date is not known, the date on which the loss was discovered, and the cause and nature thereof, together with all of the facts surrounding the loss;

(f) In the case of losses while in receiving tanks, (1) whether the spirits were destroyed by accidental fire or other casualty after the same should have been drawn off and removed to an internal revenue bonded warehouse; (2) whether the loss occurred as a result of any negligence, connivance, collusion, or fraud on the part of the owner or any of his agents or employees; (3) whether the claimant is the owner of the spirits; and (4) whether the owner is indemnified against

the tax by a valid claim of insurance for a sum greater than the actual value of the spirits, less the tax. If the spirits were insured, the amount of the insurance and the actual value of the spirits must be stated explicitly, and certified copies of all policies of insurance covering the spirits must be furnished;

(g) In the case of losses in the process of manufacture or distillation or before removal to an internal revenue bonded warehouse, (1) whether the spirits were destroyed by accidental fire or other casualty; (2) whether the loss occurred as a result of any fraud, collusion, or negligence of the distiller or any of his agents or employees; and (3) whether the claimant is the distiller of the spirits.* (Secs. 2847, 2901 (b), I.R.C.)

§ 184.361 *Supporting statements.* Claims for losses due to destruction of spirits by accidental fire or other casualty while in the distillery must be supported by affidavits of persons having personal knowledge of the loss.* (Secs. 2847, 2901 (b), I.R.C.)

§ 184.362 *Filing of claims.* Claims for the remission of tax on spirits will be filed with the supervisor of the district in which is located the distillery at which the loss occurred. Such claims should be filed within 30 days after the loss is discovered.*

§ 184.363 *Report of losses.* Losses of distilled spirits by accidental fire or other casualty must be reported to the district supervisor by the distiller immediately after the losses are discovered. Where losses of spirits by casualty in the distillery occur or are discovered while a Government officer is on duty, the officer will immediately make a full report of the loss to the district supervisor. The officer's report should set out the nature, cause, and extent of the loss in sufficient detail to bring out all the known material facts and circumstances surrounding the loss. The condition of each tank or other container from which loss has been sustained, and the quantity lost therefrom, should be reported by the officer.*

§ 184.364 *Investigation by district supervisor.* Where large losses from casualty or other causes are reported, the district supervisor will immediately make such investigation and require such evidence to be submitted as he may deem necessary, and will advise the Commissioner of his findings and recommendation relative to remission of the tax on the spirits.*

§ 184.365 *Examination of claim.* When an application for remission of tax is received by the district supervisor he will carefully examine the same to see that all the required information has been furnished, and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon completion of his investigation, if any, the district supervisor will forward the claim and accompanying papers, together with any pertinent reports and documentary evidence, to the Commissioner with his

recommendation in respect to the allowance or disallowance of the claim.*

§ 184.366 *Records.* Where spirits are lost or destroyed after they have been gauged for removal, or for deposit in the brandy deposit room, appropriate entry will be made by the distiller in the summary, on Form 15, of spirits produced, disposed of, and on hand. In case of loss or destruction of spirits before they are gauged, the distiller will make a notation thereof on Form 15, and attach to each copy of such form an explanatory statement of the loss.* (Sec. 2841 (a), I.R.C.)

ARTICLE XXVII—SPIRITS PRODUCED AND NOT ACCOUNTED FOR

§ 184.367 *Commissioner to make assessments.* Under the law, it is the duty of the Commissioner to inquire and determine whether the distiller has accounted for all the spirits produced by him. If the Commissioner finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller and make an assessment for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate imposed by law.* (Sec. 2846, I.R.C.)

§ 184.368 *Prompt filing of returns required.* In order that there may be no unnecessary delay in making assessments, district supervisors will take such steps as may be necessary to secure the filing of fruit distillers' returns on Form 15 and storekeeper-gaugers' reports on Form 1520 within the time prescribed by law.*

§ 184.369 *District supervisor's examination of returns.* Upon receipt of the distiller's return, Form 15, the district supervisor will examine it to determine whether the distiller has accounted for all the spirits produced by him during the month. If he finds that the distiller apparently has not accounted for all the brandy produced by him, he shall make such investigation as he may deem necessary and determine, from all the evidence he can obtain, the quantity of spirits actually produced by the distiller.* (Secs. 2846, 3170, I.R.C.)

§ 184.370 *Use of materials not reported.* If the district supervisor should find that the distiller has received on his premises materials which have not been accounted for, or has used materials which have not been reported as used, and has produced brandy which has not been reported, the quantity of brandy produced and not reported should be determined from all the evidence that can be obtained, including evidence of the normal actual yield of brandy from such materials at the particular plant.* (Secs. 2846, 3170, I.R.C.)

§ 184.371 *Determining brandy produced.* If it is found that all materials received have been accounted for and all materials used have been reported, but that the distiller has not accounted for all the brandy produced, the quantity

actually produced should be determined from all the evidence that can be obtained. The evidence that brandy has been produced from materials reported used and has not been accounted for by the distiller should be direct and positive.* (Sec. 2846, I.R.C.)

§ 184.372 *Notice to distiller.* If it is determined that the distiller has not accounted for all the brandy produced by him, the district supervisor will, unless the interests of the Government require an immediate assessment, notify the distiller of the proposed assessment and afford him an opportunity to submit within 30 days, or such further time as the district supervisor may consider reasonable, evidence showing why the proposed assessment should not be made.*

§ 184.373 *Nature of evidence.* The evidence submitted by the distiller should be in the form of affidavits and certified documents.*

§ 184.374 *Consideration of distiller's response.* If the distiller responds to the notice and submits evidence bearing on the merits of the proposed assessment, the district supervisor will give due consideration thereto and make such further investigation as he may deem advisable. If, after consideration of all the facts, the district supervisor finds that tax is due, he will report the same to the Commissioner in accordance with the prescribed assessment procedure. If the district supervisor finds that tax should not be assessed, he will forward the affidavits and other documents submitted by the distiller, together with investigation reports, if any, to the Commissioner with his recommendation thereon.*

§ 184.375 *Claim for remission.* Where the distiller claims, pursuant to notice of proposed assessment, that the spirits produced and not accounted for were actually destroyed on the distillery premises by accidental fire or other casualty in the process of manufacture or distillation, or before removal to an internal revenue bonded warehouse, without any fraud, collusion, or negligence on his part, he will apply for remission of the tax on such spirits in accordance with the provisions of Article XXVI.* (Secs. 2847, 2901 (b), I.R.C.)

§ 184.376 *Distiller's failure to respond.* If the distiller fails to respond to the notice of proposed assessment within the time specified, the district supervisor will report to the Commissioner, in accordance with the prescribed assessment procedure, the amount found due for assessment.*

ARTICLE XXVIII—OPERATIONS ON SUNDAY

§ 184.377 *Emergencies only.* No distilling operations may be conducted at a fruit distillery at any time between the hours of 11:00 p. m. of any Saturday and 1:00 a. m. of the next succeeding Monday, unless the district supervisor shall find that an emergency exists requiring operation of the distillery between such hours for the purpose of preventing the loss, and effecting the

salvaging, of crop or other materials.* (Secs. 2825, 2836, I.R.C.)

§ 184.378 *Application.* Any fruit distiller desiring to operate his distillery between 11:00 p. m. Saturday and 1:00 a. m. Monday shall file application, in duplicate, with the district supervisor, setting forth specifically the dates on which he desires to so operate and describing fully the necessity therefor. The application shall be filed a sufficient time in advance of the earliest date named therein for such emergency operation to enable the district supervisor to determine whether such an emergency exists, and, if he approves the application, to assign an officer to supervise the operations where deemed necessary.* (Secs. 2825, 2836, I.R.C.)

§ 184.379 *Approval of application.* If the application is approved, the district supervisor will note his approval on both copies thereof, with the date of approval, and will return one copy to the applicant and retain the other copy on file.* (Secs. 2825, 2836, I.R.C.)

§ 184.380 *Penalty for unauthorized operation.* Any operation of the distillery between 11:00 p. m. Saturday and 1:00 a. m. Monday, without first receiving authorization therefor from the district supervisor, as herein provided, will render the distiller liable to the penalty prescribed by law.* (Secs. 2825, 2836, I.R.C.)

ARTICLE XXIX—SUSPENSION AND RESUMPTION OF OPERATION

Suspension of Operations

§ 184.381 *Notice, Form 124.* Any fruit distiller desiring to suspend operations at his distillery for the season or for a period of 30 days or more shall give notice on Form 124, in triplicate, stating when he will suspend operations. Where a storekeeper-gauger is assigned to the distillery the notice will be delivered to such officer. The giving of such notice will not be required where operations are temporarily suspended for less than 30 days due to accident, the necessity for making repairs, seasonal conditions, or other causes.* (Secs. 2825, 2850, I.R.C.)

§ 184.382 *Completion of operations required.* Before the distillery may be suspended for a period of 30 days or more, except in the case of unavoidable accident as hereinafter provided, all distilling materials, fermented or in the process of fermentation, and all unfinished spirits, except distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, must be distilled and all brandy produced must be run into the receiving tanks, drawn therefrom, gauged, and removed from the distillery. Distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil may, as provided in section 184.221, be stored in the brandy deposit room for a period of not more than 30 days after suspension of operations, pending removal for denaturation or destruction, or, in the case of change of type of distillery, retained

in locked heads and tails tanks or in the brandy deposit room for a period of not more than 60 days, as provided in section 184.399. Such distillates not so stored in the brandy deposit room must be destroyed or removed for denaturation before suspension of the distillery, except that where the suspension is due to change of type of distillery they may be retained in locked heads and tails tanks for not more than 60 days, as herein provided.* (Secs. 2825, 2850, I.R.C.)

§ 184.383 *Date of suspension.* The distiller will fix in the notice the time when all distilling material, fermented or in the process of fermentation, and all unfinished spirits, except distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, will be distilled and run into the receiving tanks. Where no storekeeper-gauger is assigned to the distillery the distiller will forward the notice to the district supervisor in sufficient time to reach him at least 48 hours before the date the distiller intends to suspend operations, in order that the district supervisor may detail an officer to lock the furnace door of each still or the control valve in the pipe line conveying steam or fuel to each still, as the case may be, at the time operations are suspended.* (Secs. 2825, 2850, I.R.C.)

§ 184.384 *Locking furnace doors, etc.* When notice of suspension is given by the distiller the storekeeper-gauger on duty at the distillery, or the officer detailed to visit the distillery by the district supervisor, will see that operations are completed as provided in section 184.382, and will then lock the furnace door of each still or the control valve in the pipe line conveying steam or fuel to each still and will supervise the disconnection of the distillery machinery and the removal to the bonded warehouse or the receiving room or brandy deposit room, or other secure place, of some portion of such machinery necessary for distillation. The locks used for securing furnace doors, or the control valves in steam or fuel lines, will be taken from such other places in the distillery, where locks are not necessary while the distillery is suspended, as may be designated by the district supervisor. In lieu of removing a portion of the distilling apparatus to the warehouse or other secure place, the district supervisor may require two of the ports (manheads) of column stills to be locked open by passing a chain or two iron straps through the ports and around the outside of the still, and locking the chain or straps in place.* (Secs. 2825, 2850, 3170, I.R.C.)

§ 184.385 *Officer's certificate of suspension.* The officer will certify on each copy of Form 124 to the action taken by him, and will furnish one copy of the form to the distiller and forward the remaining copies to the district supervisor, who will forward one copy to the Commissioner. The district supervisor may relieve any officer assigned to the plant from duty thereat during the

period of suspension.* (Secs. 2825, 2850, 3170, I.R.C.)

§ 184.386 *Distilling material at suspended distillery forbidden.* Except as provided in the following section, no distiller may, after the time fixed in his notice, Form 124, for suspension of work at the distillery, carry on the business of a distiller on the said premises, or have any distilling material, fermented or in the process of fermentation, in his distillery or on any premises connected therewith, or have in his possession or under his control any such distilling material, with intent to distill the same on said premises.* (Secs. 2825, 2850, I.R.C.)

§ 184.387 *Suspension caused by unavoidable accident.* In case of an accident necessitating a suspension for a period of 30 days or more, the distiller should, if possible, distill all distilling material, fermented or in the process of fermentation, and all unfinished spirits on hand. Should the accident be of such a nature as to render this impossible, the distiller will immediately give notice of suspension on Form 124, in triplicate, as provided in section 184.381. The storekeeper-gauger will then lock the furnace doors of the stills or the control valves in the steam or fuel lines leading to the stills, and supervise the disconnection and removal of distillery machinery, as provided in section 184.384. The officer will then certify on Form 124, in triplicate, to the action taken by him and state the quantity, if any, of distilling material or unfinished spirits on hand at the time of such suspension, and will furnish one copy of the form to the distiller and forward the remaining copies to the district supervisor, who will forward one copy to the Commissioner. The district supervisor may relieve any officer assigned to the plant from duty thereat during the period of suspension.* (Secs. 2825, 2850, 3170, I.R.C.)

Resumption of Operations

§ 184.388 *Notice, Form 125.* No distiller may carry on the business of a distiller after the time stated in his notice of suspension, Form 124, until he shall have given another notice to the district supervisor on Form 125, in triplicate, stating the time when he will resume operations. This notice should be forwarded to the district supervisor a sufficient time in advance of the date it is desired to resume operations to enable the district supervisor to assign a storekeeper-gauger to remove the locks. The notice should ordinarily reach the district supervisor at least 48 hours in advance of the date the distiller desires to resume operations. The district supervisor will designate an officer to remove the locks and other fastenings placed on the equipment at the time of suspension and to supervise the connection of the machinery on the date specified in the Form 125. Where the suspension was caused by accident, and

distilling material or unfinished spirits remained on hand, the designated officer will determine whether the same kind and quality of distilling material or unfinished spirits reported on Form 124 as on hand at the time of suspension are on hand at the time of resumption, less natural evaporation.* (Secs. 2825, 2850, 3170, I.R.C.)

§ 184.389 *Officer's certificate of removal of locks and fastenings.* The officer will certify on Form 125, in triplicate, to the action taken by him and to the kind and quantity, if any, of distilling material or unfinished spirits on hand at the time of such resumption, and will furnish one copy of Form 125 to the distiller and forward the remaining copies to the district supervisor, who will forward one copy to the Commissioner.* (Secs. 2825, 2850, 3170, I.R.C.)

§ 184.390 *Unauthorized removal of locks and fastenings.* No revenue officer or other person may remove Government locks and fastenings and permit connection of the machinery where a distillery has been suspended, except by direction of the district supervisor pursuant to notice of resumption.* (Secs. 2825, 2850, I.R.C.)

ARTICLE XXX—REGISTRY OF STILL "FOR USE" AND "NOT FOR USE"

§ 184.391 *Registry on Form 26.* Every person having in his possession or custody or under his control any still set up, must register the same with the district supervisor for the district in which it is located. This registry must be made on Form 26, in triplicate, immediately the still is set up. When the distiller intends to use the still, he must register it "For use," and when he intends to discontinue use of the still he must register it "Not for use." This registry will also be made on Form 26, in triplicate, with the district supervisor, as in the case of original registry. The district supervisor will, upon approval of the form, retain one copy, forward one copy to the Commissioner, and return the remaining copy to the distiller. The distiller will retain his copy at the distillery available for inspection by Government officers.* (Secs. 2810, 3170, I.R.C.)

§ 184.392 *Seasonal registration.* Where the distiller has only one still, or has two or more stills and intends to operate all of them, he may register his still or stills "For use" at the beginning of the distilling season and "Not for use" at the close of the season: *Provided*, That whenever operations are to be suspended for a period of 30 days or more, the distiller shall register the still or stills "Not for use." The Form 26 covering the registration of stills "Not for use" or "For use," when distilling operations are suspended or resumed, should accompany the notice of suspension or resumption, Form 124 or 125, respectively. Where the distiller has two or more stills and intends to discontinue use of one or more of them and to continue the use of one or more stills, he

must immediately register as "Not for use" the still or stills he does not intend to use. It will not be necessary to register the still or stills because of temporary suspensions of less than 30 days." (Sec. 2810, I.R.C.)

ARTICLE XXXI—OPERATIONS BY DISTILLER UNDER DIFFERENT TRADE NAMES OR STYLES

§ 184.393 *Commencement of operations.* Whenever a fruit distiller desires to operate his distillery under a trade name or style which has not been previously approved, he must comply with section 184.122 (a) and secure approval thereof in the manner prescribed by Articles XVII and XVIII, prior to commencement of operations thereunder. Thereafter, whenever he desires again to operate under such trade name or style, he must comply with section 184.122 (b) and secure approval as prescribed by Article XVII, prior to commencement of operations thereunder.*

§ 184.394 *Disposition of materials in process.* Whenever the distiller desires to operate his distillery under a trade name or style other than the trade name or style under which he is then operating, and has complied with the above provisions, he will not be required to complete the distillation of materials and unfinished spirits in the process of manufacture before commencing business under such other trade name or style.*

§ 184.395 *Finished spirits.* All finished spirits remaining in the receiving tanks or in storage tanks in the brandy deposit room, if any, at the time the change in trade name or style becomes effective must be branded and removed in the trade name or style under which they were finished. All finished spirits produced from the materials in process and unfinished spirits remaining on hand at the time the change in trade name or style becomes effective must be branded and removed in the trade name or style under which they are finished. Brandy in property marked and branded packages may, if desired, be retained in the brandy deposit room, notwithstanding a change in the trade name of the distiller.*

§ 184.396 *Records.* Separate records on Form 15 will not be required for operations under each trade name, but the distiller must note on such record the trade names or styles under which he operated during the month and the dates of operation under each. Where spirits are produced under a trade name, the storekeeper-gauger's report of gauge, Form 1520, must show both the real name of the actual distiller and the trade name under which the spirits were produced.*

ARTICLE XXXII—ALTERNATE OPERATION AS INDUSTRIAL ALCOHOL PLANT OR REGISTERED DISTILLERY

§ 184.397 *Qualifying for alternate operation.* Whenever a distillery established or operated under these regulations is to be operated alternately as

such and as an industrial alcohol plant or registered distillery, the procedure prescribed in Article XVI for effecting such change in the type of the distillery must be complied with.*

§ 184.398 *Completion of operations required.* When a fruit distillery is to be operated as an industrial alcohol plant or as a registered distillery, the business of producing brandy, except as hereinafter provided, must be completely finished by the person or persons first carrying on the business, and the distillery duly suspended before it can be operated as an industrial alcohol plant or a registered distillery. All unfinished spirits, including singlings and low wines, except distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil collected in accordance with the provisions of Article XXI, must be redistilled and run into receiving tanks, drawn off, gauged, and removed by the outgoing distiller. Except as provided in the following section, all such distillates must be disposed of before the distillery may be operated as an industrial alcohol plant or registered distillery.* (Secs. 2825, 2850, I.R.C.)

§ 184.399 *Retention of distillates.* Where the change in the type of plant is to be temporary only, and the quantity of distillates on hand containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil is insufficient for a carload shipment (but not over 10,000 wine gallons), the outgoing distiller may retain such distillates under Government lock in heads and tails tanks or in the brandy deposit room in the distillery until the plant is again operated by him as a fruit distillery under these regulations (but for not more than 60 days), if such distiller furnishes a duly executed consent of surety, Form 1533, in triplicate, continuing liability on the fruit distiller's bond, Form 30½, for the tax on such distillates retained on the premises, notwithstanding the change in the type of plant. When such distillates are so retained on the distillery premises, the district supervisor will cause a sample of the contents of each container not previously tested to be taken and analyzed to determine whether the distillate contains the required percentage of aldehydes or fusel oil.* (Sec. 2916, I.R.C.)

§ 184.400 *Transfer of materials, etc.* The outgoing distiller may transfer to his successor materials on hand, including those in process, at the time the change in type of plant takes place, but no spirits may be so transferred, except the residue of spirits in the stills which it is not practicable to completely boil out: *Provided, however,* That materials not usable and residue of spirits in stills not producible under the law at the succeeding type of plant may not be transferred to the successor. Where such materials and residue of spirits are not transferable, all materials in process must be distilled, all basic materials must be removed from the premises, and the

stills and other vessels must be completely cleared of spirits, and such spirits, if other than distillates intended for retention in accordance with the provisions of section 184.399, removed from the distillery in accordance with law before the change in type of plant becomes effective. When it is again desired to resume operations as a distiller under these regulations, the business of producing alcohol or whisky, rum, etc., as the case may be, must be similarly finished and the industrial alcohol plant or registered distillery suspended in accordance with governing regulations.*

§ 184.401 *Transfer agreement, Form 1614.* Where the outgoing distiller and his successor so arrange for the transfer of distilling materials, the outgoing distiller will file with the district supervisor six copies of Form 1614, "Transfer Agreement," duly executed by himself and the prospective successor. The form will be filed in sufficient time to permit consideration thereof in connection with the transferor's notice of suspension of operations and the transferee's qualifying documents. The district supervisor will forward the two originals of Form 1614 to the Commissioner and, upon receipt of notice of the Commissioner's approval of the transferee's qualifying documents, will forward one copy to the transferor and one copy to the transferee. The district supervisor will retain two copies, one for the file of the transferor and one for the file of the transferee.*

§ 184.402 *Locking of furnace doors not required.* In cases of alternate operation of the fruit distillery as such and as an industrial alcohol plant or registered distillery without lapse of time, it will not be necessary for the storekeeper-gauger to lock the furnace doors of the stills or the control valves in pipe lines which convey steam or fuel to the stills, or to require disconnection of the distillery machinery.*

§ 184.403 *Completion of records.* The outgoing distiller will complete his record, Form 15, as to the removal of basic materials from the premises, or the transfer of basic materials and materials in process to his successor, as the case may be, and as to the production and removal from the distillery of all brandy produced by him. If distillates collected in accordance with Article XXI are retained on the premises under lock in tanks or in the brandy deposit room, as provided in section 184.399, a notation will be made on Form 15 showing that such distillates are temporarily retained on the premises pending resumption of operations as a fruit distillery. The fruit distiller will continue to file monthly reports on Form 15 during the period such distillates are retained on the distillery premises. Where the plant is operated as a fruit distillery in two or more periods during the same month by the same proprietor, the operations of such proprietor will be recorded on the same Form 15, but appropriate notations will be made on the separating

lines to show the dates the distillery was operated as a registered distillery or industrial alcohol plant, and the names under which it was so operated.* (Sec. 2841 (a), I.R.C.)

§ 184.404 *Records of successor.* The succeeding distiller will enter all materials, including those in process, received from his predecessor on Form 1442 if the distillery is to be operated as an industrial alcohol plant, or on Form 1598 if the distillery is to be operated as a registered distillery. The materials received will also be entered on Form 1452-B by the storekeeper-gauger if the fruit distillery is to be operated as an industrial alcohol plant, or on Form 1592 if the fruit distillery is to be operated as a registered distillery. If materials are transferred when the plant is again operated as a fruit distillery, appropriate entry thereof will be made on the records of the transferor and transferee.* (Secs. 2841 (a), 3105, I.R.C.)

§ 184.405 *Disposition of spirits.* When a change in type of plant takes place, the storekeeper-gauger assigned or detailed to the distillery will see that all distillates collected in accordance with Article XXI are disposed of, unless retained under Government lock in tanks or in the brandy deposit room, in accordance with the provisions of section 184.399, and that all other unfinished spirits, except the residue of spirits in stills where the same is to be transferred to the successor as provided in section 184.400, are distilled, branded, and removed by the outgoing distiller in the name under which they were produced, before the plant is operated as another type of distillery.*

§ 184.406 *Alternate operation by same proprietor.* Where the plant is to be operated alternately as a fruit distillery and as an industrial alcohol plant or registered distillery by the same proprietor, the procedure will be the same as in the case where the succeeding type of plant is to be operated under different proprietorship, except that in lieu of the submission of a transfer agreement on Form 1614 the distiller will, when distilling materials or the residue of spirits in stills are to be transferred to himself at the succeeding type of plant, request authority on Part 1 of the form to make such transfer.*

ARTICLE XXXIII—CHANGE OF PERSONS INTERESTED IN BUSINESS

§ 184.407 *Completion of operations required.* When a succession, or actual change, in the person or persons operating the distillery shall take place, other than a change brought about by operation of law, as by the appointment of an administrator, executor, receiver, trustee, assignee or other fiduciary, the business of producing brandy must be completely finished by the person or persons who have been carrying on the business, and the operations suspended before the business shall be undertaken or begun by the succeeding distiller, unless by an agree-

ment between the outgoing distiller and the successor it shall be arranged to transfer from the former to the latter at midnight of a certain day all materials in process, and all unfinished spirits in the distillery at that hour; and provided that, in either case, the notice, bond, and other qualifying documents of the successor have been approved to take effect on the day next succeeding that at the close of which the transfer is made. Such documents should therefore be submitted to the district supervisor in sufficient time to permit such approval for the date desired. Except in the case of alternate operations by two or more previously qualified distillers as provided by section 184.151, the successor of a distiller shall not commence operations until all documents required for his qualification as such distiller have been approved by the Commissioner. All finished spirits must be branded and removed by the outgoing distiller in the name under which they were produced, before any spirits are deposited in the receiving cisterns or withdrawn from the distillery by the successor.*

§ 184.408 *Transfer agreement, Form 1614.* Where the outgoing distiller and the successor so arrange for the transfer of all distilling materials in process, and all unfinished spirits on hand, the outgoing distiller will file with the district supervisor six copies of Form 1614, "Transfer Agreement," duly executed by himself and the prospective successor. The form will be filed in sufficient time to permit consideration thereof in connection with the transferor's notice of suspension or discontinuance of operations, and the transferee's qualifying documents. The district supervisor will forward two copies of Form 1614 to the Commissioner, and, upon receipt of notice of the Commissioner's approval of the transferee's qualifying documents, will forward one copy to the transferor and one copy to the transferee. The district supervisor will retain two copies, one for the file of the transferor and one for the file of the transferee.*

§ 184.409 *Locking of furnace doors not required.* In such cases of succession or change in the operations of the distillery without lapse of time, it will not be necessary for the Government officer to lock the furnace doors of the stills or the control valves on pipe lines which convey steam or fuel to the stills, or to disconnect the distilling machinery.*

§ 184.410 *Records.* The outgoing distiller shall enter on his Form 15 all materials and all unfinished spirits transferred to his successor, who shall in turn enter such items on his Form 15 as received from his predecessor. Where the change in proprietorship is of a permanent nature, the outgoing distiller shall complete Form 15 and submit a final report on such form to the district supervisor. Appropriate notations will be made on such final report showing the change in proprietorship and the date thereof. Where the distillery is oper-

ated under alternating proprietorships, each proprietor shall keep a separate Form 15. When operations are conducted by the same proprietor in two or more periods during the same month, the operations by such proprietor will be entered on the same Form 15, appropriate notations being made on the separating lines to show the names of the alternating proprietors and the dates the distillery was operated by them. At the end of the month, report will be submitted to the district supervisor on such form in accordance with Article XXXVII,* (Sec. 2841, I.R.C.)

§ 184.411 *Succession by fiduciary.* Where a change in proprietorship is brought about by operation of law, the administrator, executor, receiver, trustee, assignee, or other fiduciary may not continue the business until the required qualifying documents have been filed and approved. In the case of such change, the fiduciary shall make appropriate notation on Form 15 of his succession, and the date thereof.*

ARTICLE XXXIV—SALES OF BRANDY BY FRUIT DISTILLERS

§ 184.412 *Bulk containers.* Under the regulations of the Federal Alcohol Administration (27 CFR, Part 3), fruit distillers may sell or dispose of brandy in bulk, that is, containers having a capacity in excess of 1 wine gallon, (1) to other distillers, (2) to proprietors of internal revenue bonded warehouses, (3) to distillers and internal revenue bonded warehousemen who are proprietors of tax-paid bottling houses, (4) to proprietors of class 8 customs bonded warehouses, (5) to rectifiers, (6) to winemakers for the fortification of wine, (7) to any agency of the United States or of any State or political subdivision thereof, (8) for export, (9) on warehouse receipts, conforming to the regulations of said Administration, for distilled spirits in internal revenue bonded warehouses, and (10) for industrial use, as follows: For experimental purposes, and in the manufacture (a) of medicinal, pharmaceutical, and antiseptic products, including prescriptions compounded by retail druggists, (b) of toilet products, (c) of flavoring extracts, sirups, or food products, or (d) of scientific, chemical, mechanical, or industrial products; provided such products are unfit for beverage use. Fruit distillers may not, under the regulations of the Federal Alcohol Administration (27 CFR, Part 3), sell or dispose of brandy (not including spirits—fruit) in bulk for industrial use unless such brandy is shipped or delivered directly to the industrial user thereof. (Sec. 6, 49 Stat., 985; 27 U.S.C., 206)

§ 184.413 *Retail containers.* Except as provided in section 184.412, fruit distillers may sell or dispose of brandy only in containers having a capacity of 1 gallon or less. All such containers having a capacity of one-half pint or more must conform to the requirements of Regulations 13 (26 CFR, Part 175).* (Sec. 6, 49

Stat., 985, 27 U.S.C., 206; Sec. 2871, I.R.C.)

ARTICLE XXXV—SPECIAL (OCCUPATIONAL) TAXES

§ 184.414 *Wholesale and retail liquor dealer.* Except as provided in section 184.415, distillers must, in order to sell distilled spirits, file returns on Form 11, "Special Tax Return," and pay special (occupational) taxes as wholesale liquor dealers or retail liquor dealers, or both, as the case may be, in accordance with the law and regulations governing the payment of such special taxes.* (Secs. 3250 (a), (b), 3270, 3271, 3272, I.R.C.)

§ 184.415 *Exemption of distiller.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales. This provision does not exempt distillers from the payment of special taxes for sales of distilled spirits of their own production in bond (by warehouse receipts or otherwise), or in cases or containers other than the original packages, or for exportation, fortification of wine, use of the United States, etc., without attachment of tax-paid stamps to the original packages, nor does it exempt them from liability for special taxes where distilled spirits produced by other distillers are sold by them.* (Sec. 3250 (a) (4), I.R.C.)

ARTICLE XXXVI—STOREKEEPER-GAUGER'S FILES

System of Filing

§ 184.416 *Gauge reports and removal applications.* The storekeeper-gauger's copy of all Forms 1520 covering brandy removed direct from the distillery upon tax-payment or for exportation or for deposit in an internal revenue bonded warehouse not operated by the distiller on or contiguous to the distillery premises, or for transfer to fortifying rooms of wineries, will be filed in the storekeeper-gauger's office in a separate file, in chronological order and in sequence to the serial numbers of the packages removed. The applications for tax-payment or for removal for the other purposes specified above, Form 179, 206, 236, or 257, will be filed separately according to the form number, in chronological order.*

§ 184.417 *Reports covering deposits in warehouse operated by distiller on or contiguous to distillery premises.* The Forms 1520 covering the entry gauge of brandy deposited in an internal revenue bonded warehouse operated by the distiller on or contiguous to the distillery premises will be filed as a permanent record, in bound form, in the storekeeper-gauger's office for the warehouse in a separate file, in chronological order and in sequence to the serial numbers of the packages deposited. Where separate Government offices are maintained for

the distillery and the bonded warehouse, the extra copy of Form 1520 provided in accordance with section 184.312 will be filed in the Government office for the distillery in the manner prescribed in the preceding section for the filing of such forms covering the removal for deposit in an internal revenue bonded warehouse not operated by the distiller on or contiguous to the distillery premises.*

ARTICLE XXXVII—DISTILLER'S RECORDS AND REPORTS

§ 184.418 *Record of distillery operations, Form 15.* The distiller shall keep a record of the distillery operations on Form 15, "Monthly Return of Fruit Distiller." Entries shall be made as indicated by the headings of the various columns and lines and in accordance with the instructions printed on the form, and as set forth in these regulations. Except as provided in section 184.419, the entries shall be made not later than the close of business of the day on which the transactions occur. Form 15 will be kept at the distillery as a permanent record, in bound form, subject to inspection by Government officers at any reasonable hour.* (Sec. 2841, I.R.C.)

§ 184.419 *Entry of brandy produced.* The quantity of brandy reported produced in all cases will be taken from the storekeeper-gauger's reports on Form 1520 and entered as of the date of gauge. Except as provided in section 184.183, the quantity of singlings produced will be determined by the storekeeper-gauger at the time they are to be redistilled and will be entered on the form as of such date.* (Sec. 2841, I.R.C.)

§ 184.420 *Monthly report.* Immediately after the close of the month and the gauging of all brandy produced during the month, but in no case later than the 10th day of the succeeding month, the distiller shall render two copies of Form 15 to the district supervisor. The district supervisor will, after audit and not later than the last day of the month succeeding that for which rendered, forward one copy of the report to the Commissioner and will retain the remaining copy.* (Secs. 2844, 3170, I.R.C.)

§ 184.421 *Execution of report.* The report must be signed in the same manner as the distiller's notice, Form 27½ except that in the case of a corporation the affixing of the corporate seal will not be required. Each report must be verified under oath (or affirmation) by the distiller or his authorized agent at the distillery. Where the reports are signed by an agent, proper power of attorney, authorizing the agent to execute the reports for the distiller, must be filed in duplicate with the district supervisor, who will forward one copy to the Commissioner.*

§ 184.422 *Record of sales at tax-paid premises, Form 52E.* Every proprietor of a fruit distillery who maintains tax-paid premises at which tax-paid distilled spirits are received, stored, and sold in bulk, shall keep Form 52E, "Monthly Record

and Report of Importer or Proprietor of Tax-Paid Premises," of all spirits, both bulk and bottled, received and disposed of at his tax-paid premises: *Provided*, That if such proprietor so desires he may keep Form 52E for bulk spirits only and Record 52, "Wholesale Liquor Dealer's Record," for bottled spirits only. Where only bottled spirits are received, stored, and sold at such tax-paid premises, the proprietor shall keep Record 52 of all such spirits received and disposed of at his tax-paid premises. By tax-paid premises is meant the "tax-paid" or "free" warehouse or room maintained in conjunction with the distillery, or premises maintained at other locations for the receipt, storage, and disposition of tax-paid spirits. Separate records must be kept at each of such premises.* (Sec. 2857, I.R.C.)

§ 184.423 *Time of making entries.* Daily entries shall be made on Record 52 and Form 52E, as indicated by the headings of the various columns and in accordance with instructions printed thereon, not later than the close of business of the day on which the transactions occur: *Provided*, That where the proprietor of the tax-paid premises keeps a separate record, such as invoices, of the removals of distilled spirits showing the removal data required to be entered on Record 52 or Form 52E, daily entries of removals of spirits from the premises may be made on the respective record not later than the close of business of the following business day, provided such separate record is approved by the district supervisor.* (Sec. 2857, I.R.C.)

§ 184.424 *Separate Record of serial numbers of cases.* Serial numbers of cases of distilled spirits disposed of need not be entered on Record 52 or Form 52E, provided the proprietor keeps in his place of business a separate record, approved by the district supervisor, showing such serial numbers, with necessary identifying data, including the date of removal and the name and address of the consignee. Such separate record may be kept in book form (including loose-leaf books) or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such a manner that the required information may be ascertained readily therefrom, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by revenue officers. Entries shall be made on such separate approved record not later than the close of business of the day on which the transactions occur. The proprietor whose separate record has been approved by the district supervisor shall make a notation in the column for reporting serial numbers, as follows: "Serial numbers shown on commercial records per authority dated _____" (Sec. 2857, I.R.C.)

§ 184.425 *Monthly reports.* A full and complete transcript of Record 52

and Form 52E shall be rendered monthly on the respective monthly reports, Forms 52A, 52B, and 52E, and forwarded to the district supervisor on or before the 10th day of the succeeding month. Where Record 52 is kept, a monthly summary report shall be prepared on Form 338, in duplicate, one copy of which will be retained on file and the original forwarded to the district supervisor on or before the 10th day of the succeeding month. Records kept on Record 52 and Form 52E shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.* (Sec. 2857, I.R.C.)

§ 184.426 *Forms to be provided by users.* Record 52 and Forms 52A, 52B, 52E, and 338 will be provided by users at their own expense but must be in the form prescribed by the Commissioner. *Provided,* That with the approval of the Commissioner they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further,* That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the fly-leaf of the book, instead of on the individual form.*

ARTICLE XXXVIII—DISTRICT SUPERVISOR'S MONTHLY SCHEDULE OF DISTILLER'S RETURNS

§ 184.427 *Schedule of returns, Form 412.* District supervisors in whose districts fruit distillers are located will prepare a monthly schedule on Form 412, "Schedule of Returns of Fruit Distillers," of every fruit distiller's monthly return, Form 15, received by them for the month. The required data for the schedule will be obtained from the distiller's returns, after such returns have been audited. The entries will be made as indicated by the headings of the columns and lines and in accordance with the instructions printed on the form. Form 412 will be prepared in duplicate and one copy thereof, accompanied by a copy of each distiller's return scheduled therein, will be forwarded to the Commissioner not later than the last day of the month succeeding that for which rendered. The remaining copy will be retained by the district supervisor.*

ARTICLE XXXIX—GENERAL PROVISIONS RELATING TO DISTILLERIES

§ 184.428 *Production of mash, wort, or wash.* No mash, wort, or wash fit for distillation or for the production of spirits or alcohol shall be made or fermented in any building or on any premises other than a distillery or industrial alcohol plant duly authorized according to law, except when made for the manufacture of fermented liquors or for the manufacture of vinegar.* (Sec. 2834, I.R.C.)

§ 184.429 *Sale or removal of mash, wort, or wash; distillation.* No mash, wort, or wash made and fermented in any distillery or industrial alcohol plant shall be sold or removed therefrom before being distilled; and no person other than an authorized distiller or proprietor of an industrial alcohol plant shall by distillation or by any other process separate the alcoholic spirits from any fermented mash, wort, or wash, except when separated in the manufacture of vinegar.* (Sec. 2834, I.R.C.)

§ 184.430 *Removal of spirits at night.* Under the law, no person may remove any distilled spirits at any other time than after sunrise and before sunset in any cask or package containing more than 10 gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored. This provision does not forbid the removal from the distillery, under the supervision of the storekeeper-gauger, of brandy by pipe line after sunset to the fortifying room of a contiguous winery or to an internal revenue bonded warehouse located on the distillery premises.* (Sec. 2870, I.R.C.)

§ 184.431 *Use of distillery premises.* Except as otherwise provided in these regulations, the distillery premises must be used exclusively for the purpose of distilling.* (Secs. 2819, 2825, I.R.C.)

ARTICLE XL—MANUFACTURE, TAX-PAYMENT, REMOVAL, AND REGISTRATION OF STILLS AND WORMS

§ 184.432 *General.* Whenever fruit distillers manufacture or reconstruct stills or worms, or set up, sell, or remove stills or distilling apparatus, they must comply with the regulations governing the payment of special and commodity taxes, the securing of permits before setting up or removing stills and distilling apparatus, and the registration of stills and distilling apparatus set up.*

ARTICLE XLI—CONCERNING LOCKS AND SEALS

§ 184.433 *General.* Except as otherwise provided in these regulations, the Commissioner will furnish, at the expense of the United States, all Government locks and seals required to be used at fruit distilleries. District supervisors will see that distilleries in their respective districts are fully equipped with locks in good condition, and that the necessary seals are provided for seal locks. District supervisors will bear in mind that Government locks are required upon all necessary openings in the distillery apparatus by which access may be had to spirits in the process of manufacture from the first still in which the vapors rise until the finished spirits are deposited in the receiving tanks; upon all doors in the receiving and brandy deposit rooms, if any; and upon the control valves in pipe lines which convey steam or fuel to the stills or

which convey brandy to warehouse storage tanks or to tanks in the fortifying rooms of contiguous wineries or to tank cars.* (Sec. 2820, I.R.C.)

§ 184.434 *Defective or broken locks.* When any Government lock becomes defective or broken, the storekeeper-gauger will return it to the district supervisor with a letter giving the kind and number. When the district supervisor has accumulated a sufficient number of such defective or broken locks he will destroy the same and report the destruction thereof to the Commissioner.*

§ 184.435 *Seal locks.* Seal locks will be used on the entrance doors of the receiving and brandy deposit rooms; on the door of the Government cabinet; on the manheads, inlets, outlets, and other openings of receiving tanks and singlings tanks, except that plain locks will be used on receiving tanks located in a securely constructed receiving or brandy deposit room; and on such other places where the use of seal locks is required by these regulations or deemed necessary by the district supervisor.*

§ 184.436 *Plain locks.* Plain locks will be used at all other places in the distillery where locks are required by these regulations.*

§ 184.437 *Custody of keys.* The storekeeper-gauger will keep the keys to Government locks in use under his charge in his custody at all times, and will not permit them at any time to go into the possession of the distiller or any other person except the district supervisor or another Government officer authorized to receive them.* (Secs. 2820, 3170, I.R.C.)

§ 184.438 *Use of seal lock.* The seal lock is constructed with a clasp attached thereto, with blind hinges at the bottom opening downward. This clasp covers an indentation in the face of the lock surrounding the keyhole for the insertion of the seal. When it is desired to seal close the lock, a seal will be placed in the indentation made for its reception, and the seal clasp will then be shut and the hasp pushed downward into the lock, thereby locking the lock and seal clasp.*

§ 184.439 *Use of lock seals.* Lock seals are numbered consecutively and care will be taken to use them in the order in which they are numbered, beginning with the lowest number. In cases where locks are required to be opened several times during the day, the seal will not be inserted until the lock is closed for the night, unless the duties of the storekeeper-gauger having the lock in charge require him to leave the distillery premises during the day. All seals must be so inserted that the serial number will be visible through the keyhole after the locks are fastened. Government officers will, before opening seal locks, see that the seal has not been broken or tampered with.*

§ 184.440 *Custody of locks.* Government locks when not required for use at plants will be retained in the possession of the district supervisor. Receipts will be taken by district supervisors from storekeeper-gaugers for all locks and seals issued to them. Storekeeper-gaugers are strictly prohibited from intrusting locks, keys, or seals in their charge to any person other than an internal revenue officer entitled to receive them, and under no circumstances will they permit locks to remain open, whether hanging by the shackle or otherwise.*

§ 184.441 *Cap seals.* All unions, flanges, and other pipe connections in the distillery equipment not secured by welding or brazing or similar methods must be securely connected and sealed with seals approved by the Commissioner. A special type of seal, serially numbered, has been approved for use in sealing unions, flanges, and other detachable pipe connections. This seal has, for the purpose of identification, been designated a "Cap" seal.*

§ 184.442 *Affixing cap seals.* Cap seals must be affixed in such a manner as to prevent disconnection of the equipment without detection. No. 16 gauge copper wire will be used in applying these seals, unless the use of a different gauge of such wire is authorized by the Commissioner. The seals must be used in serial order, beginning with the lowest number. When applied initially they will follow in consecutive order the flow of the spirits.*

§ 184.443 *Custody of cap seals.* Cap seals furnished storekeeper-gaugers for use at fruit distilleries must be kept by them in the Government cabinet.*

§ 184.444 *Breaking of sealed connections forbidden.* Sealed connections must not be broken by the distiller for any reason, except in cases of emergency and then only after notifying the storekeeper-gauger, if any, assigned to the distillery, or the district supervisor. Where the distiller desires to make changes in the equipment involving the breaking of a sealed connection he will follow the procedure prescribed in section 184.132.* (Sec. 2851, I.R.C.)

§ 184.445 *Removal of cap seals.* Except as provided in section 184.444, cap seals which have been affixed may be removed only by a storekeeper-gauger or some other officer designated for the purpose by the district supervisor. All removed seals will be forwarded to the district supervisor with a statement giving the number thereof, the reason for removal, the place from which removed, the serial number of the seal used for replacement, and the date the new seal was applied. When a sufficient number of such removed cap seals has been accumulated, the district supervisor will cause them to be destroyed. The person designated to destroy the seals will render to the district supervisor a report of their destruction.* (Sec. 2851, I.R.C.)

§ 184.446 *Storekeeper-gauger's record of cap seals.* Storekeeper-gaugers will keep a record of cap seals in a blank book supplied by the Bureau for that purpose. When cap seals are received the storekeeper-gauger will enter in the record book the date of receipt, the number received, and the serial numbers thereof. When the seals are used the serial number of each, date of use, description of the place sealed, and the name or initials of the storekeeper-gauger applying the same will be entered in appropriate columns of such record. When seals are removed, as provided in section 184.445, entries will be made in the record book showing the serial number of each, the reason for removal, the place from which removed, the serial number of the seal used for replacement, and the date the new seal was applied. The record book will be kept in the Government cabinet when not in use.*

§ 184.447 *Storekeeper-gauger's report of locks and seals.* Storekeeper-gaugers will render to district supervisors a monthly report of all locks and seals in their charge, on Form 289, "U. S. Storekeeper-Gaugers' Report of Locks, Seals, Gaugers' Manuals, Hydrometers, and other Equipment."*

§ 184.448 *District supervisor's report of locks and seals.* District supervisors will be held accountable for the Government locks and seals, including cap seals, supplied upon their respective requisitions, and for those received from their predecessors in office. Outgoing district supervisors will take receipts from their successors in office for the Government locks then in use and on hand, and for seals on hand, in the district. District supervisors will keep an account of locks and seals, and will make return thereof quarterly to the Commissioner on Form 152, "Return of Locks, Seals, and Gauging Instruments."*

§ 184.449 *Requisition for lock seals.* Lock seals will be furnished by the Commissioner in sheets of 54 seals each, upon requisition by the district supervisor. Requisitions should be made for the number of seals sufficient to meet the needs of the district for six months.*

ARTICLE XLII—MANUFACTURE OF DEALCOHOLIZED WINES

§ 184.450 *General.* Dealcoholized wines containing less than one-half of 1 percent of alcohol by volume may be manufactured on the premises of a fruit distillery.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.451 *Materials.* Wines containing one-half of 1 percent or more of alcohol by volume may be procured from bonded wineries or bonded storerooms for use in the manufacture of dealcoholized wines containing less than one-half of 1 percent of alcohol by volume. All wines received for use in the manufacture of such dealcoholized wines will, at

the time of receipt, be measured and tested by the distiller and entered on Form 15 and Form 1493, "Monthly Statement of Brandy Distillery Producing Wine Containing Less than One-Half of 1 Percent of Alcohol by Volume," with the date of receipt and the name, registry number, and location of the bonded premises from which received. When the wine is distilled, appropriate entry will be made on Form 15 in the same manner as when other distilling material is distilled.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.452 *Production.* The wine must be distilled and the spirits extracted therefrom must be saved and duly accounted for on Form 15. The residue, or dealcoholized wine containing less than one-half of 1 percent of alcohol by volume, may be further treated before removal from the distillery premises to render the same marketable, but the treatment must be such as will not cause the alcoholic content of the dealcoholized wine to increase to as much as one-half of 1 percent by volume after its removal from the distillery premises. Where such wines are found on the market containing alcohol in excess of the limit specified, the distiller will be liable for the tax thereon and to the penalties prescribed by law, and the packages and their contents will be subject to seizure and forfeiture. When the manufacture of the dealcoholized wine is complete, it must be placed in barrels, casks, or tanks, plainly and legibly marked with the words "Dealcoholized Wine," and kept separate from containers of distilled spirits pending removal from the premises.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.453 *Removal.* Dealcoholized wine must be drawn into barrels or similar containers prior to removal from the distillery premises; *Provided*, That such dealcoholized wine may be transferred by pipe line to a bottling plant on contiguous premises for bottling, where in the judgment of the Commissioner such may be done without jeopardy to the revenue. Dealcoholized wine must not be drawn off or removed through the receiving room or brandy deposit room or bonded warehouse.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.454 *Marking of packages.* If dealcoholized wine is drawn into packages for shipment, such packages must be marked by the distiller with his name, distillery number, location (city or town and State), the words "Dealcoholized Wine" and "Less than One-Half of 1 Percent of Alcohol by Volume" or "Contains No. Alcohol," as the case may be, and the date of removal, in distinct and legible letters.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.455 *Supervision of removal.* All dealcoholized wine must be removed from the distillery premises under the immediate supervision of the storekeeper-gauger. Prior to removal, the store-

keeper-gauger will inspect the dealcoholized wine and determine the alcoholic content thereof by ebulliometer test.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.456 *Bottles to be labeled.* When dealcoholized wines are bottled after removal from the distillery premises, there shall be affixed to each bottle a label setting forth the name of the distiller and the location of the distillery, together with the words "Dealcoholized Wine" and "Less than One-Half of 1 Percent of Alcohol by Volume," or "Contains No Alcohol," as the case may be: *Provided*, That where the dealcoholized wine is bottled by or for a dealer there may be substituted for the name of the distiller and the location of the distillery, the registered number and State of the distillery, preceded by the letters "F. D.," as "F. D. No. 150—Cal.," and the name and address of the person by or for whom the dealcoholized wine is bottled, preceded by the words "Bottled by" or "Bottled for," as the case may be.* (Secs. 3030 (a), 3031 (a), I.R.C.)

§ 184.457 *Record and report, Form 1493.* Every fruit distiller manufacturing dealcoholized wine shall keep a record on Form 1493 for each month that dealcoholized wine is produced, or dealcoholized wine or wine containing one-half of 1 percent or more of alcohol by volume procured for the manufacture of dealcoholized wine, remains on the premises. Entries shall be made on the form as indicated by the headings of the various columns and lines thereof. The form will be retained at the distillery as a permanent record, subject to inspection by Government officers. The distiller shall prepare and forward two copies of Form 1493 to the district supervisor not later than the 10th day of the month succeeding that for which the report is rendered. The district supervisor will retain one copy in his office and will, after audit and not later than the last day of the month succeeding that for which the report is rendered, transmit the other copy to the Commissioner.* (Secs. 3030 (a), 3031 (a), I.R.C.)

ARTICLE XLIII—OFFICER'S RIGHT OF ENTRY AND EXAMINATION

§ 184.458 *Entry of distillery or premises used in connection therewith.* Under the law, any internal revenue officer may at all times, as well by night as by day, enter any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and, if not admitted upon demand, having declared his name and office, he may break open any doors or windows or break through any of the walls of such premises necessary to be broken to enable him to enter.* (Sec. 2827, I.R.C.)

§ 184.459 *Authority to break up grounds or walls.* Under the law, any internal revenue officer and any persons

acting in his aid may break up the ground on any part of the distillery or premises of a distiller, or any ground adjoining or near any such distillery or premises, or any wall or partition thereof or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil, and upon finding any pipe or conveyance leading from or to the distillery premises to break up any ground, house, wall or other place through or into which such pipe or conveyance leads, and to break or cut away such pipe or other conveyance.* (Sec. 2830, I.R.C.)

§ 184.460 *Examination of worm tubs.* Under the law, any internal revenue officer may require the water in any worm tub to be drawn off and the tub and worm cleansed at any time when the still is not at work, and the water must be kept out of the worm tub for two hours or until the officer has finished his examination.* (Sec. 2839, I.R.C.)

§ 184.461 *Distillers to furnish assistance.* Under the law, on demand of any internal revenue officer, every distiller shall furnish convenient ladders to enable the officer to examine any vessel or utensil in his distillery, and shall furnish all assistance, lights, tools, or other things necessary for inspecting the premises and apparatus, and shall open all doors, boxes, packages, and all casks, barrels, and other vessels not under the control of the Government officer in charge thereof.* (Sec. 2828, I.R.C.)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved, February 28, 1940.

H. MORGENTHAU, JR.,
Secretary of the Treasury.

APPENDIX

Rules for Computing Capacity of Stills

The estimated maximum quantity in proof gallons of distilled spirits capable of being produced every 24 hours, which is required to be shown on the distiller's notice, will be computed according to the following rules:

(1) *Pot or kettle stills.* The working capacity of pot or kettle stills will be determined by multiplying 80 percent of the cubic capacity of the still by the maximum number of boilings that can be made in 24 hours and then multiplying this result by the percent of alcohol by volume contained in the highest yielding material to be used in distillation. This result will represent the quantity of wine gallons of absolute alcohol that can be distilled in 24 hours. This quantity, when multiplied by 2, will represent the number of proof gallons. For example, if a pot still having a cubic capacity of 2,000 gallons is used, and such still can be charged three times in eight hours, and the highest percentage of alcohol by volume in the distilling material to be used

is 8 percent, the spirit-producing capacity of the still will be computed as follows: $2,000 \times .8 \times 9 \times .08 \times 2 = 2,304$ proof gallons. (The quantity that can be distilled in 24 hours.)

(2) *Charge chamber stills.* Where a charge chamber still is used, the estimated maximum quantity of distilled spirits in proof gallons capable of being produced will be determined by multiplying 80 percent of the cubic capacity of the top or charge chamber of the still by the number of times the same can be filled and emptied in 24 hours. This result will represent the total number of gallons of distilling material that can be distilled in 24 hours, which quantity will be multiplied by the percent of alcohol by volume contained in the highest yielding material to be used. The result of such computation will represent the number of wine gallons of absolute alcohol that can be distilled in 24 hours. This quantity, when multiplied by 2, will represent the number of proof gallons. For example, if a charge still is used having a charge chamber of a cubic capacity of 600 gallons which can be charged three times in one hour, and the highest percentage of alcohol by volume in the distilling material to be used is 8 percent, the spirit-producing capacity will be computed as follows: $600 \times .8 \times 3 \times 24 \times .08 \times 2 = 5,529.6$ proof gallons. (The quantity that can be distilled in 24 hours.)

(3) *Continuous stills.* If continuous stills are used, the maximum spirit-producing capacity in proof gallons of such stills will be computed on the area of the column in square feet. The first step will be to determine the inside diameter of the still at its base and the diameter will then be divided by 2 to ascertain the radius. The diameter may be determined (1) by accurately measuring the inside width of the still with a rod or tape, or (2) by measuring the outside circumference of the still and dividing the same by 3.1416 and deducting from the quotient twice the thickness of the sides of the still. The radius (in feet) will be squared and then multiplied by 3.1416 (Pi) to ascertain the area of the column in square feet. The area in square feet will be multiplied by the factor, 40 (the number of gallons of 100 proof spirits that can be distilled in one hour per square foot of plate area), and the result will represent the total number of gallons of 100 proof spirits that can be distilled in one hour. This quantity will be multiplied by 24 to determine the number of gallons of 100 proof spirits that can be distilled in one day. For example, if a continuous still having a diameter of 4 feet is used, the spirit-producing capacity will be computed as follows: $2 \times 2 \times 3.1416 \times 40 \times 24 = 12,063.74$ proof gallons. (The quantity that can be produced in 24 hours.)

[F. R. Doc. 40-856; Filed, February 29, 1940; 12:45 p. m.]

TITLE 36—PARKS AND FORESTS
CHAPTER II—FOREST SERVICE
PART 261—TRESPASS

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the Act of June 4, 1897 (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend § 261.2 (Regulation T-1) of the rules and regulations governing the occupancy, use, protection and administration of the National Forests by revoking paragraph (g) and by changing paragraphs (f) and (k) to read as follows:

(f) Using steam engines, steam locomotives or internal combustion engines or motors in operations on national forest lands under any timber-sale contract or under any permit, unless they are equipped with such spark arresters as shall be approved by the forest supervisor.

(k) Using an automobile, truck, tractor, or other machine powered by an internal combustion engine not provided with exhaust and muffler equipment in efficient condition, on any lands of the United States or on any road over lands of the United States within national forests, or on any road acquired or maintained by the Secretary of Agriculture for the protection and administration of the national forests which shall have been posted by the Secretary of Agriculture as closed to such vehicles.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 29th day of February, 1940.

[SEAL] H. A. WALLACE,
 Secretary of Agriculture.

[F. R. Doc. 40-873; Filed, March 1, 1940; 1:47 p. m.]

PART 261—TRESPASS

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the Act of June 4, 1897 (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend § 261.12 (Regulation T-10) of the rules and regulations governing the occupancy, use, protection and administration of the National Forests to read as follows:

§ 261.12 (Reg. T-10) *Settlement of trespass cases.* The forest supervisor, when authorized by the regional forester, may settle any trespass involving a claim of not more than \$1,000. The regional forester may settle any trespass involving a claim of not more than \$10,000, and may settle cases in larger amounts in which the terms of settlement have been previously reviewed and approved by the Chief of the Forest Service. The Chief of the Forest Service may settle any trespass involving a claim for not

more than \$25,000. Any trespass involving a claim for more than \$25,000 will be referred to the Secretary of Agriculture. Compromise offers to settle for less than the amount found due shall be referred through regular channels to the Secretary of the Treasury for consideration. Civil trespasses requiring the institution of legal proceedings which involve a new or unusual question of law or policy, or which involve a claim for more than \$3,000, shall be reported through the Chief of the Forest Service to the Solicitor for reference to the Attorney General for appropriate action. All other civil trespasses requiring the institution of legal proceedings may be taken up directly by the regional law officer with the appropriate United States District Attorney, after which the Department of Justice will have exclusive authority to accept or reject offers in compromise, and any offer received in such a case should be immediately transmitted to the proper United States District Attorney.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 29th day of February, 1940.

[SEAL] H. A. WALLACE,
 Secretary of Agriculture.

[F. R. Doc. 40-872; Filed, March 1, 1940; 1:47 p. m.]

OCCUPANCY, USE, PROTECTION AND ADMINISTRATION OF NATIONAL FORESTS

MODIFICATION OF REGULATION T-11

By virtue of the authority vested in the Secretary of Agriculture by the Act of Congress of February 1, 1905 (33 Stat. 628), amendatory of the Act of June 4, 1897 (30 Stat. 11, 35), I, H. A. Wallace, Secretary of Agriculture, do hereby amend Regulation T-11 of the rules and regulations governing the occupancy, use, protection and administration of the National Forests to read as follows:

Criminal Cases

Reg. T-11. Criminal trespasses, except those prosecuted under State laws, in which the circumstances are not out of the ordinary, or in which no new or unusual question of law or policy is involved, may be taken up directly by the regional law officer with the appropriate United States District Attorney for the institution of criminal proceedings. Cases involving new or unusual questions of law or policy will be reported through the Chief of the Forest Service to the Solicitor for reference to the Attorney General.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 29th day of February 1940.

[SEAL] H. A. WALLACE,
 Secretary of Agriculture.

[F. R. Doc. 40-874; Filed, March 1, 1940; 1:47 p. m.]

TITLE 47—TELECOMMUNICATION
CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 3—RULES GOVERNING STANDARD BROADCAST STATIONS

The Commission on February 29, 1940, effective immediately, amended § 3.93 (e),¹ to read:

"(e) The identifying announcement shall accurately describe the type of mechanical record used, i.e., where an electrical transcription is used it shall be announced as a 'transcription' or an 'electrical transcription', or as 'transcribed' or 'electrically transcribed', and where a phonograph record is used it shall be announced as a 'record'."

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE,
 Secretary.

[F. R. Doc. 40-881; Filed, March 2, 1940; 11:49 a. m.]

PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST*

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VISUAL BROADCAST SERVICE

Television Broadcast Stations

§ 4.71 *Defined.* The term "television broadcast station" means a station licensed for the transmission of transient visual images of moving or fixed objects for simultaneous reception and reproduction by the general public. The transmission of synchronized sound (aural broadcast) is considered an essential phase of television broadcast and one license will authorize both visual and aural broadcast as herein set forth.

(a) There shall be two types of experimental television stations, namely, "Experimental Research Stations" and "Experimental Program Stations" which

¹ 4 F.R. 2721.

*Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Secs. 303 (b), (c), (e), (f), (j), 48 Stat. 1082; 47 U.S.C. 303 (b), (c), (e), (f), (j).

[†] Adopted by the FCC, Feb. 29, 1940, effective immediately.

shall be known as Class I and Class II stations, respectively.*†

§ 4.72 *Licensing requirements, necessary showing.* (a) A license for a television Class I station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a program of research and experimentation in the technical phases of television broadcasting, which indicates reasonable promise of substantial contribution to the development of the television art.

2. That the transmission of signals by radio is essential to the proposed program of research and experimentation.

3. That the program of research and experimentation will be conducted by qualified personnel.

4. That the applicant is legally, financially, technically, and otherwise qualified to carry forward the program.

5. That public interest, convenience or necessity will be served through the operation of the proposed station.

(b) A license for a Class II station will be issued only after a satisfactory showing has been made in regard to the following, among others:

1. That the applicant has a definite plan of experimentation in the television broadcast program service which indicates reasonable promise of substantial contribution to the advancement of television broadcasting as a service to the public.

2. That the program of experimentation will be conducted by qualified personnel.

3. That program material is available and will be utilized by the applicant in rendering broadcast service to the public.

4. That a minimum scheduled program service of ten hours per week will be maintained throughout the license period.¹

5. That the applicant will install and operate transmitting and studio equipment technically adequate to render a service suitable for reception by the public.

6. That the operation with respect to the suppression of spurious emissions and carrier noise, safety provisions, etc., will be in accordance with good engineering practice.

7. That the applicant's technical facilities will be adequate to serve an area appropriate for the program of experimentation.

8. That a competent engineering study has been made of the nature, extent and effect of interference which may result from the simultaneous operation of the proposed station and other Class II television stations.

¹ This provision modifies § 4.4 (d) in so far as that Section applies to Class II television broadcast stations.

9. That the applicant is legally, financially and otherwise qualified to render a satisfactory service to the public.

10. That public interest, convenience or necessity will be served through the operation of the proposed station.*†

§ 4.73 *Charges.* (a) No charges either direct or indirect shall be made by the licensee of a television station for the production or transmission of either aural or visual programs transmitted by such station, except as provided in subsection (b).

(b) Beginning September 1, 1940, Class II television licensees may make charges against program sponsors to cover the cost of programs produced for the respective sponsors; and such sponsored programs, including advertising material, may be transmitted as part of the station's experimental program service but without charge for such transmission.

(c) The limited commercialization permitted under subsection (b) above shall not take precedence over the experimental service, but shall be subordinated to it.*†

§ 4.74 *Reports by class II stations.* Quarterly reports on forms prescribed by the Commission shall be made by Class II television broadcast stations of their charges and costs as well as of other pertinent information which may be of assistance to the Commission in evaluating the economic feasibility of television broadcasting as a regular service to the public on a commercial basis.*†

§ 4.75 *Announcements.* At the time station identification announcements are made, there shall be added the following:

"This is a special television broadcast made by authority of the Federal Communications Commission for experimental purposes."*†

§ 4.76 *Scope of experimentation, limitations and restrictions.* (a) Class I stations shall operate to conduct research and experimentation for the development of the television broadcast art in its technical phases but shall not operate to render a regularly scheduled television broadcast service to the public.

(b) No Class I station shall operate when objectionable interference would be caused by such operation to the regularly scheduled broadcast service of a Class II station.

(c) Class II stations shall operate to conduct television broadcast research and experimentation for the development of the art in its program phases and in connection therewith may carry out experiments with respect to power and antenna requirements for a satisfactory service to the public.

(d) Class II stations shall make all equipment changes necessary for rendering such external transmitter performance as the Commission may at any time require.

(e) Class II stations shall maintain a minimum scheduled program service of

ten hours per week throughout the license period.*†

§ 4.77 *Frequency assignment.* (a) The following groups of channels are allocated for assignment to television broadcast stations licensed experimentally.

Group A

Channel No. 1—44,000–50,000 kc.
Channel No. 2—50,000–56,000 kc.
Channel No. 3—56,000–62,000 kc.
Channel No. 4—62,000–68,000 kc.
Channel No. 5—68,000–74,000 kc.
Channel No. 6—74,000–80,000 kc.
Channel No. 7—80,000–86,000 kc.

Group B

Channel No. 8—156,000–162,000 kc.
Channel No. 9—162,000–168,000 kc.
Channel No. 10—168,000–174,000 kc.
Channel No. 11—174,000–180,000 kc.
Channel No. 12—180,000–186,000 kc.
Channel No. 13—186,000–192,000 kc.
Channel No. 14—192,000–198,000 kc.
Channel No. 15—198,000–204,000 kc.
Channel No. 16—204,000–210,000 kc.
Channel No. 17—210,000–216,000 kc.
Channel No. 18—216,000–222,000 kc.
Channel No. 19—222,000–228,000 kc.
Channel No. 20—228,000–234,000 kc.

Group C

Any 6,000 kc band above 300,000 kc excluding band 400,000 to 410,000 kc.

(b) Each Class II television broadcast station will be assigned only one channel. Class I television stations may be assigned one or more channels as the program of experimentation requires. Both aural and visual carriers with side bands for modulation are authorized for both Class I and Class II stations but no emission shall result outside the authorized channel. The assignment of a channel to a Class II television broadcast station does not preclude the assignment of that channel for use by Class I stations, but such a Class II television station shall have priority for the use of the channel for its scheduled program service. Licenses for both a Class I and a Class II station may be issued to a single licensee only upon a showing that the development of the television art will be assisted thereby, particularly where authority to operate on channels in Group B or C is requested for the Class I operations.

(c) Channels in Groups B and C may be assigned to television stations to serve auxiliary purposes such as television relay stations. No mobile or portable station will be licensed for the purpose of transmitting television programs to the public directly.

(d) For the present no Class II television broadcast station will be assigned a channel for time sharing operation.*†

§ 4.78 *Power.* The operating power of a Class I station shall not be in excess of that necessary to carry forward the program of research and in no case

² This provision modifies § 4.4 (a) insofar as it applies to television broadcast stations.

in excess of the power specified in its license.*†

§ 4.79 *Supplemental report with renewal application.* A supplemental report shall be filed with and made a part of each application for renewal of license and shall include comprehensive reports on the following:

(a) *For Class I television broadcast stations.* 1. Number of hours operated.
2. Full data on research and experimentation conducted, including the power employed.

3. Conclusions, tentative and final.
4. Program for further developments of the television broadcast service.
5. All developments and major changes in equipment.

6. Any other pertinent developments.
(b) *For Class II television broadcast stations.* 1. Number of hours operated during which programs were transmitted classified as studio performances, special events (with appropriate description), films, etc.

2. Studio equipment used and any developments made during the license period.

3. Progress made in the advancement of television broadcasting as a service to the public.

4. Financial data on cost of operation during the license period.

5. Power employed, field intensity measurements and visual and aural observations to determine the service area of the station.*†

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-901; Filed, March 4, 1940;
11:42 a. m.]

PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

SECTIONS REPEALED

The Commission on February 29, 1940, repealed §§ 4.71-4.76 (old numbers 43.10-43.15), effective immediately.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-902; Filed, March 4, 1940;
11:42 a. m.]

PART 7—RULES GOVERNING COASTAL AND MARINE RAILWAY SERVICES

Correction

The effective date of §§ 7.23, 7.25, 7.27, 7.28, 7.29, 7.51, 7.53, 7.54, 7.57, 7.58 (a) and 7.81 (c), (e), as printed in the Saturday, February 24, 1940, issue of the FEDERAL REGISTER on page 747, is corrected to read "effective April 1, 1940."

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-897; Filed, March 4, 1940;
11:39 a. m.]

No. 44—8

PART 8—RULES GOVERNING SHIP SERVICE

Correction

The effective date of §§ 8.31, 8.44, 8.45, 8.46, 8.81 (a), 8.82, 8.83, 8.85, 8.221 (c), (e), as printed in the Saturday, February 24, 1940, issue of the FEDERAL REGISTER on page 747, is corrected to read "effective April 1, 1940."

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-898; Filed, March 4, 1940;
11:39 a. m.]

TELEPHONE CARRIERS

MONTHLY REPORT OF REVENUES, EXPENSES, ETC.

F.C.C. Form No. 901,¹ "Monthly Report of Revenues, Expenses, and Other Items" for telephone carriers, is a revision of the former "Monthly Report of Revenues, Expenses, and Capital Changes."

Under Section 43.31 of the Commission's Rules Governing the Filing of Information, Contracts, Periodic Reports, Etc., telephone carriers having annual operating revenues above \$250,000 are required to mail their monthly reports of revenues, expenses, and other items as called for in F.C.C. Form No. 901, in duplicate, to the Federal Communications Commission, Washington, D. C. within 40 days after the end of the month covered by the report.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-903; Filed, March 4, 1940;
11:42 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 588-FD]

IN THE MATTER OF THE APPLICATION OF THE BIBBY COAL, SHALE AND CLAY COMPANY

ORDER REQUIRING RENEWAL OF APPLICATION FOR EXEMPTION

The Bibby Coal, Shale and Clay Company having on December 5, 1938, filed with the National Bituminous Coal Commission, a verified application for exemption with respect to certain bituminous coal produced and consumed by the applicant, or produced and transported by the applicant to itself for consumption by it, in the manufacture of clay products, in its plant at Littleton, Alabama; and

The Commission having on March 8, 1939 entered an order pursuant to such

¹ Filed as a part of the original document; requests for copies should be addressed to the Federal Communications Commission.

application in Docket No. 588-FD, granting said application upon condition that the Commission may thereafter require the applicant to apply annually for renewal of said order; and

The Director having determined that it is necessary to require applicant to apply for renewal of said order of March 8, 1939;

It is ordered, That said order of March 8, 1939, and the exemption granted thereby, shall automatically terminate and expire, unless at the end of thirty (30) days from the date of this order, The Bibby Coal, Shale and Clay Company shall have filed with the Director a verified application, requesting renewal of said order and the exemption granted thereby, and containing therein the following information, which the Director hereby finds to be necessary and appropriate to enable him to determine whether the conditions supporting the exemption granted to the applicant continue to exist:

(a) The full name and business address of the applicant, and the name and location of the mine or mines covered by the application for renewal of said order of March 8, 1939.

(b) The total tonnage of bituminous coal produced by applicant from such mines for a period of one year preceding the date of the filing of said application for renewal.

(c) The total tonnage of such production which was consumed by applicant, and the nature and purpose of such consumption.

(d) Whether any change has occurred in the ownership of the mine or mines in which the coal in question is produced, or in the ownership of the plant, factory, or other facility consuming such coal.

(e) Whether there has been a change in the agency or instrumentality through which the coal was being produced at the time said order of March 8, 1939, was entered, and if such change has occurred, the nature thereof.

Dated, March 2, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-893; Filed, March 4, 1940;
11:15 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ECR-406]

1940 AGRICULTURE CONSERVATION PROGRAM FOR UPBUR COUNTY, WEST VIRGINIA

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of the said Act in 1940, payments

and grants of aid will be made in Upshur County, West Virginia, for participation in the 1940 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of this bulletin are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact. The making of the payments herein provided is contingent upon such appropriation as the Congress may hereafter provide for such purpose and the amounts of such payments will necessarily be within the limits finally determined by such appropriation, the final estimate of payments which would be made in Upshur County, West Virginia, under the 1940 Agricultural Conservation Program and the extent of participation in the 1940 Upshur County Agricultural Conservation Program the rates of payment specified herein may be increased or decreased by as much as 10 percent.

The provisions of the 1940 Agricultural Conservation Program as contained in this bulletin are applicable only in Upshur County, West Virginia.

SECTION 1. Soil-building goals. The soil-building goal for any farm will be one unit of applicable soil-building practices for each \$1.50 computed for the farm under subsection A of Section 2. A number of units of practices equal to one-half of the number of dollars computed for the farm (under item 2 of Section 2A) with respect to noncrop open pasture land are to be carried out on such pasture land.

Insofar as practicable, the county committee will determine for individual farms practices to be followed in meeting the goal, which are not routine farming practices on the farm, but which are needed on the farm in order to conserve and improve soil fertility and prevent erosion.

SEC. 2. Payment for full performance. A. Payment will be made with respect to any farm for achieving the soil-building goal in an amount which will be the sum of the following: *Provided*, That for any farm with respect to which the sum of the amounts computed under items 1 and 2 below is less than \$20.00, such sum will be increased by the amount of the difference.

(1) 70 cents for each acre of cropland.

(2) 25 cents for each acre of fenced noncrop open pasture land on the farm which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land.

B. In addition to the payment computed under paragraph A of this Section

2, a special payment of \$30.00 may be earned by planting forest trees as provided in practice 12 below.

SEC. 3. Payment for partial performance. The payment for any farm computed under the provisions of subsection A of Section 2 will be subject to all of the following deductions which are applicable to the farm:

(1) \$1.50 for each unit by which the number of units of soil-building practices carried out on noncrop open pasture land is less than the number of units to be carried out on such pasture land as provided in Section 1.

(2) \$1.50 for each unit by which the soil-building goal is not reached, less any units on which deductions are made under item (1) of this Section 3.

SEC. 4. Soil-building practices. The soil-building practices listed below will count toward reaching the soil-building goal, to the extent indicated, when carried out in the period November 1, 1939 to August 31, 1940, in accordance with good farming practice and the provisions of this bulletin.

Practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the A. A. A. will not count toward reaching the goal. If a part of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the A. A. A. and such part represents one-half or more of the total cost of carrying out the practice, the practice will not count toward reaching the goal; if such part represents less than half of the total cost of carrying out the practice, one-half of the practice will count toward reaching the goal.

SCHEDULE OF SOIL BUILDING PRACTICES

A. Each of the following practices in the amounts specified will be counted as one unit except that the materials specified in items 1, 2, and 3 will not qualify if applied to perennial or biennial legumes, perennial grasses, winter legumes, or lespedeza, seeded in connection with corn, vegetable crops, potatoes, or small grains harvested for grain or for hay after maturity:

1. Application of 240 pounds of 20 percent superphosphate (or its equivalent) to, or in connection with the seeding of, green manure crops in orchards, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, or permanent pasture, provided that application on noncrop pasture land will be counted only if such land has been treated since January 1, 1938, with a minimum of 1,000 pounds per acre of ground limestone, or equivalent, or lime was applied between January 1, 1935, and December 31, 1937, and tests show that lime is not required.

2. Application of 100 pounds of triple superphosphate furnished by the A. A. A. as a grant of aid to, or in connection

with the seeding of, green manure crops in orchards, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, or permanent pasture, provided that application on noncrop pasture land will be counted only if such land has been treated since January 1, 1938, with a minimum of 1,000 pounds per acre of ground limestone, or equivalent, or lime was applied between January 1, 1935, and December 31, 1937, and tests show that lime is not required.

3. Application of 200 pounds of 50 percent muriate of potash (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, or permanent pasture.

4. Application of 1,000 pounds of ground limestone (or its equivalent) when applied at a rate of not less than 1,000 pounds per acre.

For purposes of this practice, 150 pounds of limestone screenings, or 70 pounds of hydrated or burned lime will be considered to be equivalent to 100 pounds of ground limestone. Ground limestone of which 90 percent or more will pass through a 10-mesh sieve will be considered as ground limestone. Such material of which less than 90 percent will pass through a 10-mesh sieve will be considered as limestone screenings.

5. Each acre seeded to adapted varieties of alfalfa; provided, the lime and superphosphate requirements of the soil as determined by a soil test were met prior to seeding.

6. Each two acres seeded to approved red clover, alsike clover, sweet clover, white clover, bluegrass, or mixtures of perennial grasses and legumes containing any of such legumes; provided the land has been treated since January 1, 1939, with a minimum of 200 pounds per acre of 20 percent superphosphate, or equivalent, and since January 1, 1938, with a minimum of 2,000 pounds per acre of ground limestone or equivalent, or lime was applied between January 1, 1935, and December 31, 1937, and tests show that lime is not required.

7. Each two acres seeded to orchard grass, vetch, crimson clover, or mixtures of perennial grasses and legumes other than a mixture containing a legume listed in 6 above and a mixture consisting solely of timothy and redbud.

8. Each acre of green manure crops: soybeans, cowpeas, crimson clover, vetch, rye, barley, wheat, buckwheat, oats, Sudan grass, millet, sorghum, or mixtures of these crops, of which a good stand and a good growth is plowed or disced under as green manure.

9. Each four acres seeded to annual lespedeza, timothy, redbud, or a mixture consisting solely of timothy and redbud.

10. Each four acres of contour strip-cropping where prior approval of the county committee is obtained.

B. Each acre of the following shall be counted as two units:

11. With prior approval of the county committee, improving a stand of forest trees under such system of farm woodlot and wildlife management as is recommended by the State committee and approved by the Regional Director.

C. Each acre of the following shall be counted as five units:

12. Planting forest trees, provided they are protected from fire and grazing and cultivated in accordance with good tree-culture and wildlife management as is recommended by the State committee and approved by the Regional Director.

SEC. 5. *Division of payments.* The amount of payment earned for the farm will be paid to the person who carried out the soil-building practices and who shared in the crops or livestock on the farm or is the owner of the farm. If the county committee determines that more than one such person contributed to the carrying out of soil-building practices in 1940 the payment will be divided in the proportion that the units contributed by each person bears to the total units contributed by all persons. All persons contributing to practices carried out on a particular acreage will be deemed to have contributed equally to the units, unless such persons prove to the county committee that their contributions were not in equal proportion, in which event such units will be divided in the proportion which the county committee determines each person contributed thereto.

SEC. 6. *Increase in small payments.* The total payment computed under Sections 2 to 5, inclusive, for any person on any farm will be increased as follows:

- (1) Any payment amounting to 71 cents or less will be increased to \$1.00;
- (2) Any payment amounting to more than 71 cents but less than \$1.00 will be increased by 40 percent;
- (3) Any payment amounting to \$1.00 or more will be increased in accordance with the following schedule;

Amount of payment computed:	Increase in Payment
\$1.00 to \$1.99	\$0.40
\$2.00 to \$2.99	.80
\$3.00 to \$3.99	1.20
\$4.00 to \$4.99	1.60
\$5.00 to \$5.99	2.00
\$6.00 to \$6.99	2.40
\$7.00 to \$7.99	2.80
\$8.00 to \$8.99	3.20
\$9.00 to \$9.99	3.60
\$10.00 to \$10.99	4.00
\$11.00 to \$11.99	4.40
\$12.00 to \$12.99	4.80
\$13.00 to \$13.99	5.20
\$14.00 to \$14.99	5.60
\$15.00 to \$15.99	6.00
\$16.00 to \$16.99	6.40
\$17.00 to \$17.99	6.80
\$18.00 to \$18.99	7.20
\$19.00 to \$19.99	7.60
\$20.00 to \$20.99	8.00
\$21.00 to \$21.99	8.20
\$22.00 to \$22.99	8.40
\$23.00 to \$23.99	8.60
\$24.00 to \$24.99	8.80
\$25.00 to \$25.99	9.00

Amount of payment computed—Continued.	Increase in Payment
\$26.00 to \$26.99	9.20
\$27.00 to \$27.99	9.40
\$28.00 to \$28.99	9.60
\$29.00 to \$29.99	9.80
\$30.00 to \$30.99	10.00
\$31.00 to \$31.99	10.20
\$32.00 to \$32.99	10.40
\$33.00 to \$33.99	10.60
\$34.00 to \$34.99	10.80
\$35.00 to \$35.99	11.00
\$36.00 to \$36.99	11.20
\$37.00 to \$37.99	11.40
\$38.00 to \$38.99	11.60
\$39.00 to \$39.99	11.80
\$40.00 to \$40.99	12.00
\$41.00 to \$41.99	12.10
\$42.00 to \$42.99	12.20
\$43.00 to \$43.99	12.30
\$44.00 to \$44.99	12.40
\$45.00 to \$45.99	12.50
\$46.00 to \$46.99	12.60
\$47.00 to \$47.99	12.70
\$48.00 to \$48.99	12.80
\$49.00 to \$49.99	12.90
\$50.00 to \$50.99	13.00
\$51.00 to \$51.99	13.10
\$52.00 to \$52.99	13.20
\$53.00 to \$53.99	13.30
\$54.00 to \$54.99	13.40
\$55.00 to \$55.99	13.50
\$56.00 to \$56.99	13.60
\$57.00 to \$57.99	13.70
\$58.00 to \$58.99	13.80
\$59.00 to \$59.99	13.90
\$60.00 to \$185.99	14.00
\$186.00 to \$199.99	(¹)
\$200.00 and over	(²)

¹ To \$200.00.

² No increase.

SEC. 7. *Materials furnished by A. A. A. to carry out soil-building practices.* If it is found practicable, limestone, superphosphate, trees, seeds, and other farming materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which will be counted toward meeting the soil-building goal for the farm. If such materials are furnished to a person, a deduction from the payment for the farm will be made in the amount of the approximate average cost of such material to the Agricultural Adjustment Administration. The rate of such deduction for Upshur County will be established by the Regional Director. Such deduction will be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction will be prorated among the payments to the other persons sharing in the payment with respect to the farm for which such materials were obtained or on which they were used.

Materials will only be furnished pursuant to a producer's request and agreement upon a form prescribed by the Agricultural Adjustment Administration. Such agreement will provide that (1) in the event the amount of deduction for materials exceeds the amount of the payment with respect to the farm, the amount of such difference will be paid by the producer to the Secretary; (2) if the producer uses the materials in a manner which is not in substantial accord with the purposes for which such

materials are furnished, the deduction with respect to the materials misused will be twice the regular rate of deduction in order to compensate the Government for damages because of such misuse; and (3) the finding of the county committee that the materials have been used in a manner which is not in substantial accord with the purposes for which materials are furnished, and as to the amount of the material so misused, will be final when approved by the State committee, subject to the right of appeal.

SEC. 8. *General provisions—A. Payment restricted to effectuation of purposes of the program.* All or any part of any payment which otherwise would be made to any person under the 1940 Agricultural Conservation Program may be withheld;

(1) If he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program;

(2) If, with respect to forest land or woodland owned or controlled by him, he willfully burns over or allows to be burned over his woodland or any material portion thereof (failure to attempt to suppress any such woods fire will be considered as intentional burning), or clear-cuts or allows to be clear-cut his present stand of timber below a minimum diameter on the stump of approximately 10" for coniferous species, and approximately 14" for hardwood species except (1) where clear-cutting of undesirable species is followed by planting of forest trees of desirable species, (2) where the clearing is for needed cropland, or (3) other special cases approved by the county committee in accordance with instructions issued by the State committee. This provision will not prohibit cutting a limited number of selected trees of smaller size in places where the stand is dense.

B. *Deduction for association expenses.* There will be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the Upshur County Agricultural Conservation Association.

C. *Assignments.* Any person who may be entitled to any payment in connection with the 1940 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1940. No assignment will be recognized unless it is made in writing on Form ACP-69 in accordance with instructions (ACP-70) issued by the AAA and unless such assignment is entitled to priority, as determined under instructions issued by the AAA governing recording of such assignments.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other

than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

D. Persons eligible to file applications for payment. An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section 5, a share in the payment with respect to the farm may be computed.

E. Time and manner of filing application and information required. Payment will be made only upon application submitted through the county office on or before a date fixed by the Regional Director but not later than March 31, 1941. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if any form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

F. Appeals. Any person may request the county committee in writing to reconsider its determination with respect to any matter affecting the right to or the amount of his payment under the program, within 15 days after notice of the determination is forwarded to or made available to him. After reconsideration by the county committee, an appeal may be made to the State committee and to the Regional Director.

G. Instructions and forms. The Agricultural Adjustment Administration will prepare and issue such instructions and forms as may be required in administering the 1940 Agricultural Conservation Program for Upshur County, West Virginia.

Sec. 9. Definitions. For the purposes of the 1940 Upshur County, West Virginia, Agricultural Conservation Program:

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the director of the East Central Division of the Agricultural Adjustment Administration.

East Central Region means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia and West Virginia.

State Committee means the group of persons designated within the State of West Virginia to assist in the administration of the 1940 Agricultural Conservation Program in the State.

County Committee means the group of persons elected within Upshur County

to assist in the administration of the 1940 Agricultural Conservation Program in the county.

Person means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Farm means all adjacent or nearby farm land under the same ownership, which is operated by one person.

Cropland means farm land which in 1939 was tilled or was in regular rotation, excluding any land in commercial orchards.

Noncrop, Open Pasture means pasture land (other than rotation pasture land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Animal Unit means one cow, one horse, five sheep, five goats, two calves, two colts, or the equivalent thereof.

Done at Washington, D. C., this 2d day of March 1940. Witness my hand and seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-384; Filed, March 4, 1940; 9:37 a. m.]

[RCP-1940]

1940 RANGE CONSERVATION PROGRAM BULLETIN FOR MEAGHER COUNTY, MONTANA

Payment will be made for participation in the 1940 Meagher County, Montana, Range Conservation Program in accordance with the provisions hereof and such modifications thereof as may hereafter be made. This bulletin supersedes for Meagher County all portions of WR-1940-Montana-1 relating to range.

SECTION 1. Rates of range-building payments. Within the limits of the range-building allowance and subject to the conditions hereinafter set forth, payment will be made for carrying out on range land in 1940 such of the range-building practices listed in this section as are approved by the county committee for the ranching unit prior to their institution; *Provided*, That payment for range-building practices other than (a), natural reseeding by limited grazing, shall not exceed 60 percent of the range-building allowance computed under Section 2 (a) plus the range-building allowance computed under Section 2 (b), less any deductions provided for in Section 3 (c).

PRACTICE AND CONDITIONS OF PAYMENT AND RATE OF PAYMENT

Reseeding of Range Land

(a) **Natural reseeding by limited grazing.** Subject to the conditions hereinafter set forth, payments will be made for the performance of limited grazing

on range land, if approved by the county committee for the ranching unit prior to its institution, during the year 1940 as follows:

(1) If no goal is established for the ranching unit by the county committee or if a goal is established by the county committee for the ranching unit and the operator fails to fully comply with the provisions thereof: 40 percent of that part of the range-building allowance which is computed under Section 2 (a).

(2) If a goal is established for the ranching unit by the county committee and if the operator fully complies with the provisions thereof: 75 percent of that part of the range-building allowance which is computed under Section 2 (a).

The goal provided for in this Section 1 (a) shall be established by the county committee and shall consist of conditions and specifications other than those listed in this bulletin, and in addition to limited grazing, which the county committee determines are necessary on the ranch either to support and complement the effective conservation use to be made of the range in connection with such range-building practices as are contained in this bulletin or to assist in connection with limited grazing in bringing about on the ranching unit such use of the forage resources as will more effectively carry out the purposes of the Soil Conservation and Domestic Allotment Act. The county committee's determination with respect to goals shall be based on conservative range management, forage and feed resources of the ranch, topographic and cultural features, utilization of forage by wildlife and the extent to which the resources of the ranch have been utilized in a conservative manner.

(b) **Artificial reseeding.** For reseeding depleted range land, including mountain meadowland, with good seed of adapted varieties of range grasses, legumes or forage shrubs: \$0.15 per pound of seed sown, but not in excess of \$1.50 per acre.

Erosion and Run-Off Control

(d) **Contour listing, furrowing, or subsoiling.** For listing, furrowing, or subsoiling range land, including mountain meadowland, on the contour: 2.5 cents per 100 linear feet.

(f) **Spreader dams and terraces.** For constructing spreader dams and spreader terraces alone or in combination with each other for the diversion of surface water to prevent soil washing of range land, including mountain meadowland:

(1) Spreader dams, \$0.15 per cubic yard of material moved.

(2) Spreader terraces, \$0.50 per 100 linear feet.

Development of Stock Water on Range Land

(g) **Earthen tanks or reservoirs.** For constructing reservoirs or earthen tanks with spillways adequate to prevent dams from washing out, for the purpose of

providing water for range livestock: \$0.15 per cubic yard of material moved not in excess of 5,000 cubic yards, and \$0.10 per cubic yard of material moved in excess of 5,000 cubic yards for each tank or reservoir.

(1) *Wells.* (1) For drilling or digging wells with casing not less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir. Payment will not be made for a well developed at any ranch headquarters: \$2.00 per linear foot.

(2) For drilling wells with casing less than 4 inches in diameter, for the purpose of providing water for range livestock, provided a windmill or power pump is installed and the water is conveyed to a tank or storage reservoir, or for drilling an artesian well for the purpose of providing water for range livestock, provided adequate stock water is made available during the grazing season and the water is conveyed to a tank or trough. Payment will not be made for a well developed at any ranch headquarters: \$1.00 per linear foot.

(3) *Development of natural watering places.* For developing springs or seeps for the purpose of providing water for range livestock; provided, The source is protected from trampling, and at least 20 cubic feet of available water storage is provided; And provided further, that the total cost of development is not less than \$20.00: \$0.30 per cubic foot in soil or gravel and \$0.50 per cubic foot in rock formation for excavation of source, provided the minimum payment will be \$20.00 and the maximum payment \$100.00 for any single development.

Fire Guards

(t) *Fire guards.* For the establishment on range land of fire guards not less than 10 feet in width by plowing furrows or otherwise exposing the mineral soil. Payment will not be made if any fire guard is used in connection with controlled burning within the ranching unit. \$0.05 per 100 linear feet.

Sec. 2. Range-building allowance—

(a) *Acreage and grazing capacity.* The range-building allowance shall be 3 cents per acre of range land in the ranching unit plus 75 cents times the grazing capacity of the range land: *Provided, however,* That the grazing capacity item shall not be calculated on more than one animal unit for each 10 acres of range land in the ranching unit, and the acreage item shall not be calculated on more than 60 acres for each animal unit of grazing capacity established for the ranching unit: *Provided further,* That the amount computed under this paragraph shall not be less than 10 cents times the number of such acres or 640 acres, whichever is smaller.

(b) *Mountain meadowland.* In addition, the range-building allowance shall include 35 cents times the number

of acres of mountain meadowland in the ranching unit from which hay is normally harvested for feeding on the ranching unit to range livestock owned by the operator of the ranching unit: *Provided, however,* The mountain meadowland for which this additional allowance is made shall not be considered in calculating the portion of the range-building allowance provided for in paragraph (a).

Sec. 3. *Conditions of payment.* (a) No payment for range-building practices carried out under Section 1 will be made unless limited grazing has been carried out on the ranch during 1940 or the county committee shall have determined that the method of ranch management for those ranching units which did not participate in either the 1938 or the 1939 range programs has been adjusted before December 31, 1940, in the manner required to successfully carry out limited grazing.

(b) *Promotion of conservation and good range management.* Payments for carrying out range-building practices are conditioned upon the adoption or maintenance of conservative range management practices designed to secure or maintain a good stand of grass or other palatable forage plants and in bringing about such use of the forage resources of the ranch as will most effectively carry out the purposes of the Soil Conservation and Domestic Allotment Act. Payments under the 1940 Meagher County, Montana, Range Conservation Program will be made only with respect to those ranching units on which the county committee certifies that such range management practices have been followed. The range-building practices approved by the county committee for any ranching unit shall be practices which the county committee finds are needed on the ranch in order to promote conservation and good range management.

(c) *Payments limited to range-building allowance.* The range-building payment with respect to any ranching unit shall not exceed the range-building allowance for such ranching unit. Payment will be made only if range-building practices are carried out according to specifications recommended by the State Committee and approved by the Regional Director. Payments made for carrying out range-building practices shall not be subject to the deduction provisions of Section 1 of the 1940 Agricultural Conservation Program Bulletin. However, in 1940 if any area in excess of 10 per cent of the ranching unit is overgrazed within a ranching unit on which the performance of limited grazing has been approved and, in the judgment of the county committee, this abuse was deliberate and was done for profit or through negligence, a deduction shall be made equal to five times the limited grazing payment computed for the area affected, at the average per-acre rate earned for carrying out limited grazing under (a)—

(1) or (a)–(2), whichever is applicable, for the ranching unit.

(d) *State or Federal aid.* No payment will be made for practices carried out with labor, seed, trees, and materials furnished entirely by any State or Federal agency other than the Agricultural Adjustment Administration, or for practices with respect to which a portion of the labor, seed, trees, or other materials used in carrying out such practices is furnished by a State or Federal agency other than the Agricultural Adjustment Administration, if such portion represents one-half or more of the total cost of carrying out such practices. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents less than one-half of the total cost of carrying out such practice, payment will be made for such practice at one-half of the rate specified in Section 1: *Provided,* That labor, seed, trees, and materials furnished to a State, political subdivision of a State, or any agency thereof by an agency of the same State shall not be deemed to have been furnished by "any State * * * agency" within the meaning of this paragraph. Trees purchased from a Clark-McNary Cooperative State Nursery shall not be deemed to be paid for in whole or in part by a State or Federal agency.

Sec. 4. *Changes in leasing arrangements and other devices.* No payment will be made to any person who has for 1940 made any change from the 1939 leasing arrangements of range land for the purpose of, or which would have the effect of, diverting to such person any payment to which any lessee would be entitled if the 1939 leasing arrangements of such range land were in effect for 1940. If the State Committee finds that any person who files an application for a payment pursuant to the provisions of the 1940 Meagher County, Montana, Range Conservation Program has made any change from the 1939 leasing arrangements of such range land or has employed any other scheme or device whatsoever for the purpose of, or which would have the effect of, depriving any other person of any payment or share therein to which such other person otherwise would be entitled, the Secretary may withhold in whole or in part from the person participating in such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or otherwise would be made to such person for performance in connection with the 1940 Meagher County, Montana, Range Conservation Program.

Sec. 5. *Eligibility for payment—*(a) *Persons eligible to file application.* Application for range-building payment may be made only by ranch operators. Range-building payments will be made to (1) a sole ranch operator, or (2)

each ranch operator of a group of two or more ranch operators, provided they all signify in the application for the range-building payment a percentum of the total payment to be made to each ranch operator. In case there are two or more ranch operators, the application must be made by all of them, except that in cases where any ranch operator refuses to sign the application for payment the county committee shall determine the percentage share of each ranch operator and payment of his percentage share will be made to each ranch operator applying for payment in accordance with such determination.

(b) *Time and manner of filing application and information required.* Payment will be made only upon application submitted through the county office, on or before a date fixed by the Regional Director but not later than April 30, 1941. The Secretary reserves the right (1) to withhold payment to any ranch operator who fails to file any form or furnish any information required with respect to any ranching unit in which such ranch operator is interested, and (2) to refuse to accept any application for payment if any form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given in advance of the expiration of a time limit for filing prescribed forms.

(c) *Excess cotton acreage.* Any person who makes application for payment with respect to any ranching unit located in a county in which cotton is planted in 1940 shall file with such application a statement that the applicant has not knowingly planted or caused to be planted during 1940 cotton on land on any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1940 and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton on his farm in 1940 on acreage in excess of the cotton acreage allotment established for the farm for 1940 shall not be eligible for any payment under the provisions of the 1940 Meagher County, Montana, Range Conservation Program. Any person having an interest in the cotton crop on a farm on which cotton is planted in 1940 on acreage in excess of the cotton acreage allotment for the farm for 1940 shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of the farm allotment is mailed to him prior to the completion of the planting of cotton on the farm, unless the farmer establishes the fact that the excess acreage was planted to cotton due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons

sharing in the production of cotton on the farm in 1940.

SEC. 6. *Payment restricted to effectuation of the purposes of the program.* All or any part of any payment which otherwise would be made to any person under the 1940 Meagher County, Montana, Range Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the 1940 or previous range conservation programs, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forest land or woodland owned or controlled by him, he adopts any practice which the Regional Director finds is contrary to sound conservation practices.

No payment will be made to any person if it is determined in accordance with instructions issued by the Agricultural Adjustment Administration that, with respect to any ranch which he owns or operates, the stand of grass has been decreased or the forage, tree growth, or watershed has been injured by overgrazing in 1940.

SEC. 7. *Payments computed and made without regard to claims.* Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in Section 11), and without regard to any claim or lien against any crop or livestock, or proceeds thereof, in favor of the owner or any other creditor.

SEC. 8. *Increase in small payments.* The total payment computed for any person with respect to any ranching unit shall be increased as follows:

- (1) Any payment amounting to 71 cents or less shall be increased to \$1.00;
- (2) Any payment amounting to more than 71 cents but less than \$1.00 shall be increased by 40 percent;
- (3) Any payment amounting to \$1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed:	Increase in payment
\$1.00 to \$1.99	\$0.40
\$2.00 to \$2.99	.80
\$3.00 to \$3.99	1.20
\$4.00 to \$4.99	1.60
\$5.00 to \$5.99	2.00
\$6.00 to \$6.99	2.40
\$7.00 to \$7.99	2.80
\$8.00 to \$8.99	3.20
\$9.00 to \$9.99	3.60
\$10.00 to \$10.99	4.00
\$11.00 to \$11.99	4.40
\$12.00 to \$12.99	4.80
\$13.00 to \$13.99	5.20
\$14.00 to \$14.99	5.60
\$15.00 to \$15.99	6.00
\$16.00 to \$16.99	6.40
\$17.00 to \$17.99	6.80
\$18.00 to \$18.99	7.20
\$19.00 to \$19.99	7.60
\$20.00 to \$20.99	8.00
\$21.00 to \$21.99	8.40
\$22.00 to \$22.99	8.80
\$23.00 to \$23.99	9.20

Amount of payment computed—Continued.	Increase in payment
\$24.00 to \$24.99	9.60
\$25.00 to \$25.99	10.00
\$26.00 to \$26.99	10.40
\$27.00 to \$27.99	10.80
\$28.00 to \$28.99	11.20
\$29.00 to \$29.99	11.60
\$30.00 to \$30.99	12.00
\$31.00 to \$31.99	12.40
\$32.00 to \$32.99	12.80
\$33.00 to \$33.99	13.20
\$34.00 to \$34.99	13.60
\$35.00 to \$35.99	14.00
\$36.00 to \$36.99	14.40
\$37.00 to \$37.99	14.80
\$38.00 to \$38.99	15.20
\$39.00 to \$39.99	15.60
\$40.00 to \$40.99	16.00
\$41.00 to \$41.99	16.40
\$42.00 to \$42.99	16.80
\$43.00 to \$43.99	17.20
\$44.00 to \$44.99	17.60
\$45.00 to \$45.99	18.00
\$46.00 to \$46.99	18.40
\$47.00 to \$47.99	18.80
\$48.00 to \$48.99	19.20
\$49.00 to \$49.99	19.60
\$50.00 to \$50.99	20.00
\$51.00 to \$51.99	20.40
\$52.00 to \$52.99	20.80
\$53.00 to \$53.99	21.20
\$54.00 to \$54.99	21.60
\$55.00 to \$55.99	22.00
\$56.00 to \$56.99	22.40
\$57.00 to \$57.99	22.80
\$58.00 to \$58.99	23.20
\$59.00 to \$59.99	23.60
\$60.00 to \$185.99	24.00
\$186.00 to \$199.99	(1)
\$200.00 and over	(2)

¹ Increase to \$200.00.

² No increase.

SEC. 9. *Payments limited to \$10,000.* The total of all payments made in connection with programs for 1940 under Section 8 of the Soil Conservation and Domestic Allotment Act to any individual, partnership, or estate with respect to farms and ranching units in the State of Montana shall not exceed the sum of \$10,000 prior to deduction for association expenses in the county or counties with respect to which the particular payment is made. The total of all payments made in connection with programs for 1940 under Section 8 of the Soil Conservation and Domestic Allotment Act to any person other than an individual, partnership, or estate with respect to farms, ranching units, and turpentine places in the United States (including Alaska, Hawaii, and Puerto Rico) shall not exceed the sum of \$10,000, prior to deduction for association expenses in the county or counties with respect to which the particular payment is made.

All or any part of any payment which has been or otherwise would be made to any person under the 1940 Agricultural Conservation Program, including the Range Conservation Program, may be withheld or required to be returned if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, or formation of any corporation, partnership, estate, trust, or by any other means, which was designed to evade, or would have the effect of evading, the provisions of this section.

SEC. 10. *Deductions for association expenses.* There shall be deducted pro rata, from the payments with respect to

any ranching unit all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the ranching unit is located.

SEC. 11. Assignments. Any person who may be entitled to any payment in connection with the 1940 Meagher County, Montana, Range Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1940. No such assignment will be recognized unless the assignment is made in writing on Form ACP-69 in accordance with instructions (ACP-70) issued by the Agricultural Adjustment Administration and unless such assignment is entitled to priority as determined under the instructions governing the recording of such assignments issued by the Agricultural Adjustment Administration.

Nothing contained in this Section 11 shall be construed to give an assignee a right to any payment other than that to which the ranch operator is entitled nor (as provided in the statute) shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the ranch operator without regard to the existence of any such assignment.

SEC. 12. Establishment of grazing capacities. There shall be established a grazing capacity for each ranching unit for which an application for determination of grazing capacity is received on or before a date established by the Regional Director as affording reasonable opportunity for the filing of such applications. In determining grazing capacity, consideration shall be given to the following: (a) composition, platability, and density of forage growth; (b) climatic fluctuations; (c) distribution and character of watering facilities; (d) topographic and cultural features; (e) presence or absence of rodents and poisonous plant infestations; and (f) number and classes of livestock previously carried. The average of the individual grazing capacities established for all ranching units in the county shall not exceed the county average grazing capacity limit established by the Agricultural Adjustment Administration on the basis of available statistics.

SEC. 13. Appeals. Any person may within 15 days after notice thereof is forwarded to or available to him request the county committee in writing to reconsider its recommendation or determination in any of the following matters respecting any ranching unit in which he has an interest: (a) eligibility to file an application for payment, (b) grazing capacity established for the range land in such ranching unit, or (c) any other matter affecting the right to or the amount of his payment with respect to the ranching unit. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatis-

fied with the decision of the county committee, he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State Committee. The State Committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State Committee, he may, within 15 days after such decision is forwarded to or made available to him, request the Regional Director to review the decision of the State Committee.

Written notice of any decision rendered under this section by the county or State Committee shall also be issued to each person known to it who, having an interest in the operation of the ranching unit, may be adversely affected by such decision. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further, but any person who, having an interest in the operation of the ranching unit, would be affected by the decision to be made on any reconsideration by the county committee or subsequent appeal shall be given a full and fair hearing if he appears when the hearing thereon is held.

SEC. 14. State and regional bulletins, instructions and forms. The Agricultural Adjustment Administration is hereby authorized to make such determinations and to prepare and issue such State and regional bulletins, instructions, and forms as may be required pursuant to the provisions hereof in administering the 1940 Meagher County, Montana, Range Conservation Program.

SEC. 15. Definitions. For the purposes of the 1940 Meagher County, Montana, Range Conservation Program unless the context otherwise requires:

Secretary means the Secretary of Agriculture of the United States.

Western Regions means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

Regional Director means the director of the division of the Agricultural Adjustment Administration in charge of the 1940 Agricultural Conservation Programs and the 1940 Range Conservation Programs, and the 1940 Meagher County, Montana, Range Conservation Program, in the State of Montana.

State Committee means the group of persons designated for the State of Montana to assist in the administration of the 1940 Agricultural Conservation Program and the 1940 Range Conservation Program and the 1940 Meagher County, Montana, Range Conservation Program, in the State of Montana.

County Committee means the group of persons elected within Meagher County to assist in the administration of the 1940 Agricultural Conservation Pro-

gram and the 1940 Meagher County, Montana, Range Conservation Program.

Person means an individual, partnership, association, corporation, estate, or trust, and wherever applicable a State, a political sub-division of a State, or any agency thereof.

Range-Building Payment means a payment for the carrying out of one or more approved range-building practices.

Range-Building Allowance means the largest amount for any ranching unit which may be earned as a range-building payment on such ranching unit.

Ranch Operator means a person who as owner, cash tenant, or share tenant operates, or a person who acts in similar capacity in the operation of, a ranching unit in 1940.

Range Land means any land in which a ranch operator has such a legal estate or interest as to give him control thereof, which produces forage grazed by range livestock, without cultivation or general irrigation. Range land shall not include public domain of the United States including lands owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

Ranching Unit means all range land which is used in 1940 by the ranch operator as a single unit in producing range livestock, with machinery, workstock, and labor substantially separate from that of any other range land. In order to facilitate the administration of the program the Regional Director may prescribe that for the purposes of this program tracts shall be deemed ranching units only if they contain more than the minimum acreage of range land fixed by him. A ranching unit shall be regarded as located in the county in which its principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the ranching unit is located.

Animal Unit means one cow, one horse, five sheep, or five goats, or the equivalent thereof.

Animal Month means the grazing capacity necessary to sustain one animal unit for one month.

Limited Grazing means the grazing of the forage of the ranching unit at such a rate during the year as to result in a sustained yield of grass or other grazing vegetation without injury to the forage, tree growth, or watershed.

Grazing Capacity of Range Land means the number of animal units which such land will sustain, on a 12-month basis, over a period of years without decreasing the stand of grass or other grazing vegetation, and without injury to the forage, tree growth, or watershed.

SEC. 16. Authority, availability of funds, and applicability. (a) *Authority.* Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation

and Domestic Allotment Act (49 Stat. 1148), as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1940, the payments provided for herein will be made for participation in the 1940 Meagher County, Montana, Range Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other revisions as may hereafter be made.

(b) *Availability of funds.* The provisions of this program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments herein provided is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation, the final estimate of payments which would be made in Meagher County, Montana, under the National 1940 Range Conservation Program and the extent of participation in the 1940 Meagher County, Montana, Range Conservation Program. As an adjustment for participation in the 1940 Meagher County, Montana, Range Conservation Program, the rates of payment specified herein may be increased or decreased by as much as 10 percent.

(c) *Applicability.* The provisions of the 1940 Meagher County, Montana, Range Conservation Program contained herein, except Section 9, are not applicable to (1) counties other than Meagher County, Montana, and (2) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

Done at Washington, D. C., this 2d day of March 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-886; Filed March 4, 1940; 9:38 a. m.]

Division of Marketing and Marketing Agreements.

ORDER OF THE SECRETARY TERMINATING THE MARKETING AGREEMENT AND LICENSE FOR SHIPPERS OF FRESH LETTUCE, PEAS, AND CAULIFLOWER GROWN IN WESTERN WASHINGTON

Whereas, the Secretary of Agriculture of the United States, acting under the provisions of Public Act No. 10, 73rd Congress, approved May 12, 1933, as amended, for the purposes and within the limitations therein contained and pursuant to the general regulations issued thereunder, executed under his hand and the official seal of the Depart-

ment of Agriculture a marketing agreement and license regulating the handling of fresh lettuce, peas, and cauliflower grown in Western Washington, which agreement and license became effective on July 21, 1934; and

Whereas, the Secretary of Agriculture has determined to terminate said marketing agreement and license:

Now, therefore, the undersigned, acting under the authority vested in the Secretary of Agriculture under the provisions of said act, as amended, and of the said marketing agreement and license, and pursuant to the general applicable regulations issued under said act, does hereby terminate the said marketing agreement and license, said termination to be effective at 12:01 a. m., p. s. t., March 8, 1940.

Done at Washington, D. C., this 2d day of March, 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-887; Filed, March 4, 1940; 9:38 a. m.]

ORDER OF THE SECRETARY TERMINATING THE MARKETING AGREEMENT AND ORDER FOR SHIPPERS OF FRESH LETTUCE, PEAS, AND CAULIFLOWER GROWN IN WESTERN WASHINGTON

Whereas, the Secretary of Agriculture of the United States, acting under the provisions of Public Act No. 10, 73rd Congress, approved May 12, 1933, as amended, for the purposes and within the limitations therein contained and pursuant to the general regulations issued thereunder, executed under his hand and the official seal of the Department of Agriculture a marketing agreement and order regulating the handling of fresh lettuce, peas, and cauliflower grown in Western Washington, which agreement and order became effective on May 4, 1936; and

Whereas, the Secretary of Agriculture has determined to terminate said marketing agreement and order:

Now, therefore, the undersigned, acting under the authority vested in the Secretary of Agriculture under the provisions of said act, as amended, and of the said marketing agreement and order, and pursuant to the general applicable regulations issued under said act, does hereby terminate the said marketing agreement and order, said termination to be effective at 12:01 a. m., p. s. t., March 8, 1940.

Done at Washington, D. C., this 2d day of March 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-888; Filed, March 4, 1940; 9:38 a. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

HAWAII

MARCH 1, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and § II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Territorial Farm Security Advisory Committee for Hawaii, the following county is hereby designated as an additional county in which loans, pursuant to said Title, may be made under the provisions of said Order, for the fiscal year ending June 30, 1940: Maui.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-875; Filed, March 1, 1940; 1:47 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Apparel Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act, § 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective March 5, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Apparel Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than eight weeks experience in the past three years upon a stitching operation in the Apparel Industry.

(2) The employment of learners under these Certificates is limited to the operation of stitching machines and for eight (8) weeks for any one learner. During this period, learners shall be paid at least 22½¢ per hour. If experienced workers are paid on a piece rate basis, the same piece rates shall be paid to the learners employed on similar work and they shall receive earnings on such piece rates if in excess of 22½¢ per hour, but in no case less than 22½¢ per hour.

(3) These Special Certificates are issued on representations by the employers that experienced stitching machine operators are not available.

(4) Any one of these Special Certificates may be canceled as of the date of its issue if found that experienced work-

ers were available when the Certificate was issued and may be canceled prospectively or as of the date of violation if found that any of its terms have been violated or that skilled workers have become available.

(5) Under these Special Certificates, no learner shall be employed at a sub-minimum wage until and unless the Certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.

NUMBER OF LEARNERS

Not in excess of 5% of the total number of stitching machine operators employed in the plant may be employed under any of these Certificates, unless otherwise indicated hereinbelow opposite the employer's name:

NAME AND ADDRESS OF FIRM AND PRODUCT

Carwood Mfg. Company, Winder, Ga., pants and sport shirts.

I. Taitel & Son, Bremen, Ind. (3 learners), men's and boys' pants.

I. Taitel & Son, Knox, Ind. (5 learners), men's and boys' pants.

Signed at Washington, D. C., this 4th day of March 1940.

GUSTAV PECK,
*Authorized Representative
of the Administrator.*

[F. R. Doc. 40-907; Filed, March 4, 1940;
12:00 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE HOSIERY INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 (Hosiery Wage Order) are issued to the employers listed below effective March 5, 1940 until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

[Here follows, in the original document, a table identical with that appearing on Page 3827 of the "Federal Register" for Thursday, September 7, 1939.]

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated hereinbelow.

These Special Certificates are issued ex parte under Section 14 of the said Act, § 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written ob-

jections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said § 522.5 (b), such Special Certificates, or any of them, may be canceled as of the date of their issuance and if so canceled, reimbursement of all persons employed under such certificates must be made in any amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such persons.

NAME AND ADDRESS OF FIRM

Laurel Hosiery Company, West Reading, Pa.

Signed at Washington, D. C., this 4th day of March 1940.

GUSTAV PECK,
*Authorized Representative
of the Administrator.*

[F. R. Doc. 40-908; Filed, March 4, 1940;
12:00 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued ex parte under Section 14 of the said Act and § 522.5 (d) of Regulations Part 522, as amended, to the employers listed below effective March 5, 1940, until October 24, 1940, subject to the following terms:

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks' experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour provided, however, that if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on

such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available. No learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Certificates expire October 24, 1940 and are subject to cancellation sooner by the Administrator or his authorized representative for cause. These Certificates are issued on representations by the employers that experienced workers are not available and may be canceled as of the date of issue if it is found that they were issued when experienced workers were available and may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's certificate must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NUMBER OF LEARNERS

Not in excess of three (3) percent of the total number of persons in the learner occupations herein described employed in the plant may be employed under these Certificates unless otherwise indicated hereinbelow opposite the employer's name.

NAME AND ADDRESS OF FIRM AND PRODUCT

Atlantic Rayon Corporation, Lowell, Mass., rayon throwing.

Superior Yarn Mills, Inc., Long Island, N. C., cotton yarn.

Superior Yarn Mills, Inc., Mount Holly, N. C., cotton yarn.

Superior Yarn Mills, Inc., Statesville, N. C., cotton yarn.

Signed at Washington, D. C., this 4th day of March 1940.

GUSTAV PECK,
*Authorized Representative
of the Administrator.*

[F. R. Doc. 40-909; Filed, March 4, 1940;
12:01 p. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE TEXTILE INDUSTRY

Notice is hereby given that Special Certificates for the employment of learners in the Textile Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938 are issued to employers listed below effective March 5, 1940, until June 5, 1940, unless otherwise indicated,

subject to the following terms and limited to the number of learners indicated opposite the employer's name.

OCCUPATIONS, WAGE RATES, AND CONDITIONS

The employment of learners in the Textile Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

(1) A learner is a person who has had less than six (6) weeks experience in the aggregate in any of the learner occupations listed below in any branch of the Textile Industry except tufted bedspreads and curtains.

(2) Learners may be employed under these Certificates only in the occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, but not in occupations similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, and employees engaged in similar work, and no learner shall be employed at less than the minimum rate for more than six (6) weeks.

(3) No learner may be paid at a rate less than 25 cents an hour: *Provided, however,* That if experienced workers are paid on a piecework rate, learners shall be paid at least the same piecework rate and shall receive earnings on such rates if in excess of 25 cents per hour but in no event less than 25 cents per hour.

(4) Experienced workers may not be employed at less than the minimum rate and no learner may be employed at less than the minimum rate unless hired when experienced workers were not available and no learner may be employed under these Certificates until and unless a copy of the certificate is posted and kept posted in a conspicuous place in the plant in which learners are to be employed.

(5) These Special Certificates are issued on representations of employers that: (a) experienced operators are not available and (5) that they are actually in need of learners at sub-minimum rates in order to prevent curtailment of opportunities for employment. These Special Certificates are issued ex parte under Section 14 of the said Act and Section 522.5 (b) of the Regulations Part 522, as amended, and are subject to cancellation by the Administrator or his authorized representative for cause. These Certificates may be canceled as of the date of their issuance if it is found, upon objection duly filed within fifteen (15) days following publication of notice of their issuance, that the issuance of these Certificates was not necessary in order to prevent curtailment of opportunities for employment. They may be canceled prospectively or as of the date of violation if it is found that any of their terms have been violated or that experienced workers have become available. A copy of the employer's Certificate

must be available at all times for inspection. Altering or attempting to alter any Certificate will render it invalid.

NAME AND ADDRESS OF FIRM, PRODUCT, AND LEARNERS

Atlantic Rayon Corporation, Lowell, Mass., rayon throwing, 50 learners.

Signed at Washington, D. C., this 4th day of March 1940.

GUSTAV PECK,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-908; Filed, March 4, 1940;
12:01 p. m.]

CIVIL AERONAUTICS AUTHORITY.

[Docket No. 382]

IN THE MATTER OF THE PETITION OF CONTINENTAL AIR LINES, INC., FOR AN ORDER FIXING AND DETERMINING THE FAIR AND REASONABLE RATES OF COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR, AND THE SERVICES CONNECTED THEREWITH OVER ROUTES NO. 29 AND NO. 43, UNDER SECTION 406 OF THE CIVIL AERONAUTICS ACT OF 1938

NOTICE OF HEARING

The above-entitled proceeding is hereby assigned for public hearing on April 1, 1940, 10 o'clock a. m. (Eastern Standard Time) in Conference Room A, Departmental Auditorium, Washington, D. C., before an Examiner of the Authority.

Dated Washington, D. C., February 28, 1940.

By the Authority.

[SEAL]

PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 40-894; Filed, March 4, 1940;
11:33 a. m.]

Air Safety Board.

[Docket No. 11]

IN THE MATTER OF INVESTIGATION OF ACCIDENT INVOLVING AIRCRAFT NC 20768, WHICH OCCURRED NEAR CASEY, ILLINOIS, ON FRIDAY, JANUARY 12, 1940

NOTICE OF HEARING

An accident involving aircraft of United States registry NC 20768 having occurred near Casey, Illinois, on Friday, January 12, 1940, it is hereby ordered by the Air Safety Board, pursuant to the provisions of Sections 702 (a) (2) and 702 (c) of the Civil Aeronautics Act of 1938, that a public hearing be held in connection with the investigation of said accident before Examiner Robert W. Chrisp, at 9:00 A. M. (E. S. T.), Tuesday, March 12, 1940, in Room 921 Post Office Building, Detroit, Michigan.

Dated, Washington, D. C., March 2, 1940.

By the Board.

[SEAL]

R. D. HOYT,
Executive Officer.

[F. R. Doc. 40-895; Filed, March 4, 1940;
11:33 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5814]

IN RE APPLICATION OF GUY S. CORNISH
(New)

Dated, August 7, 1939; for construction permit; class of service, public address relay station; class of station, broadcast; location, Portable-Mobile (area of Cincinnati, Ohio); operating assignment specified: frequency, 310,000 kc.; power 1 w. night—1 w. day—(A-3 emission); hours of operation, unlimited

[File No. B2-PARE-1]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant has an organized plan of research leading to a specific objective.

2. To determine whether the applicant has a program of research and development that has reached the stage in a laboratory where actual transmission by radio is essential to the further progress of the experimental program.

3. To determine whether the applicant has a program of research possessing reasonable promise of substantial contribution to the expansion or extension of the radio art or is along lines not previously investigated.

4. To determine whether the program of research and experimentation will be conducted by qualified personnel.

5. To determine whether the applicant is legally and financially qualified and possesses adequate technical facilities to carry forward the program and has made adequate financial appropriations toward this end.

6. To determine whether the applicant is primarily interested in research and experimentation in radio directed to the development of a new or proposed radio service.

7. To determine the use which will be made of the proposed station and the type and character of service which will be rendered.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such is-

sues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Guy S. Cornish,
6022 Bramble Avenue,
Cincinnati, Ohio.

Dated at Washington, D. C., March 1, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-899; Filed, March 4, 1940;
11:39 a. m.]

[Docket Nos. 5817, 5818]

IN RE APPLICATION OF CENTRAL RADIO TELEGRAPH COMPANY (WLF)

Dated, December 12, 1939; for renewal of license; class of service, public coastal; class of station, coastal telegraph; location, Rogers City, Mich.; operating assignment specified: Frequencies calling, 3105, 4140, 5520, 6210, 8280, 11040 kc.; working, 3120, 4780, 6380, 8640 kc.; power, 160 watts; emission, A1; hours of operation, unlimited; points of communication with maritime mobile stations in the Great Lakes area

[File No. T2-RC-108]

IN RE APPLICATION OF CENTRAL RADIO TELEGRAPH COMPANY (WLF)

Dated, December 12, 1939; for, renewal of license; class of service, marine relay; class of station, marine relay; location, Rogers City, Mich.; operating assignment specified: Frequencies calling, 3105, 4140, 5520, 6210, 8280, 11040 kc.; working, 3120, 4780, 8640 kc.; power, 160 watts; emission, A1; hours of operation, unlimited; points of communication with other marine relay stations in the Great Lakes area

[File No. T2-RM-6]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described applications and has designated the matter for hearing for the following reasons:

1. To determine which frequencies at present assigned to these stations have been used for transmitting paid message traffic during the last license periods of the stations, and the extent of such use with respect to each frequency assigned.

2. To determine which frequencies assigned to the stations are being used solely for the transmission of other than paid messages.

a. To determine the need of such service.

3. To determine whether or not adequate and efficient marine relay service may be rendered in the area now served by marine relay station WLF by means of wire facilities.

4. To determine the need for adoption by the Commission of new rules and regulations governing marine relay service.

5. To determine whether Stations WLF have in the past operated substantially as set forth in their licenses in accordance with the requirements of Section 312 (a) of the Communications Act of 1934, as amended.

6. To determine whether the granting of the applications would serve public interest, convenience or necessity.

The applications involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Central Radio Telegraph Company,
170 E. Woodward Avenue,
Rogers City, Michigan.

Dated at Washington, D. C., March 2, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-900; Filed, March 4, 1940;
11:40 a. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. G-114, G-125]

PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK, COMPLAINANT, v. NEW YORK STATE NATURAL GAS CORPORATION, DEFENDANT, AND IN THE MATTER OF NEW YORK STATE NATURAL GAS CORPORATION

ORDER POSTPONING DATE OF HEARING

MARCH 1, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, Basil Manly, John W. Scott, Clyde L. Seavey.

It appearing to the Commission that:

(a) On February 29, 1940, the New York State Natural Gas Corporation, filed with the Commission a petition requesting that the further hearing in these proceedings, now scheduled to begin on March 4, 1940, at 10 a. m. in the Commission's hearing room, 1757 K Street, NW., Washington, D. C., be con-

tinued until not earlier than March 11, 1940;

(b) Good cause has been shown for granting a continuance of the hearing;

The Commission orders that:

The public hearing in these proceedings, now set for March 4, 1940,¹ be and it is hereby postponed until March 11, 1940, at the same hour and place set forth in paragraph (a) above.

By the Commission.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-883; Filed, March 2, 1940;
12:26 p. m.]

[Docket No. G-150]

IN THE MATTER OF MISSISSIPPI RIVER FUEL CORPORATION

ORDER POSTPONING DATE OF HEARING

MARCH 1, 1940.

Commissioners: Leland Olds, Chairman; Claude L. Draper, Basil Manly, John W. Scott, Clyde L. Seavey.

It appearing to the Commission that:

(a) On February 23, 1940, the Mississippi River Fuel Corporation filed with the Commission a petition requesting that the hearing in this proceeding, now scheduled to commence on March 4, 1940, be postponed to April 3, 1940;

(b) Good cause has been shown for granting a postponement of the hearing;

The Commission orders that:

(A) The public hearing in this proceeding, now scheduled to commence on March 4, 1940,² be and it is hereby postponed until April 3, 1940, at 10 o'clock in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, Northwest, Washington, D. C.

(B) The order of the Commission of December 28, 1939, in this Proceeding, in all other respects, shall remain and continue in full force and effect.

By the Commission.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-882; Filed, March 2, 1940;
12:26 p. m.]

RAILROAD RETIREMENT BOARD.

IN THE MATTER OF THE EMPLOYER STATUS OF NATIONAL CARLOADING CORPORATION, UNIVERSAL CARLOADING & DISTRIBUTING COMPANY, INC., AND OF INDIVIDUALS WHO HAVE BEEN ENGAGED IN THE PERFORMANCE OF THE OPERATIONS OF THOSE COMPANIES

Notice is hereby given to all persons interested that pursuant to the authority

¹ 5 F.R. 189.

² 5 F.R. 25.

vested in me by Board Order No. 40-26, dated January 12, 1940, the hearing in the above-entitled matter which has been set for March 11, 1940, at 10:00 A. M., at the offices of the Board in Washington, D. C., (5 F. R. 224, January 18, 1940) is postponed to April 8, 1940, at the same time and place.

[SEAL] JOSEPH A. FARELLI,
Examiner.

MARCH 4, 1940.

[F. R. Doc. 40-896; Filed, March 4, 1940;
11:35 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of February 1940.

IN THE MATTER OF WARREN N. WITHINGTON, DOING BUSINESS AS WITHINGTON & COMPANY, 532 17TH STREET, DENVER, COLORADO

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND SUSPENSION OF REGISTRATION

Warren N. Withington, doing business as Withington & Company, a sole proprietorship, hereinafter called the registrant, having filed with the Commission on September 15, 1939, an application for registration on Form 3-M, pursuant to Section 15 (b) of the Securities Exchange Act of 1934, and registration having become effective October 15, 1939; and

The Commission having reasonable grounds to believe that:

1. The registrant has willfully violated Rule X-15B-2, adopted by the Commission pursuant to Sections 15 (b), 17 (a) and 23 (a) of said Act, by reason of the registrant having willfully failed to report and correct the inaccuracy of the information furnished:

(a) Under Item 2 of the application for registration by means of a supplemental report on Form 6-M disclosing the removal of registrant's office from 532 17th Street, Denver, Colorado, the address given under that item of the application for registration; and

(b) Under Item 18 of the application for registration, by means of a supplemental report disclosing the fact that on January 23, 1940, its application for registration as a dealer in securities in the State of Colorado was refused by the authorities of that state; and

2. It is in the public interests to revoke the registration and that it is necessary and appropriate in the public interest and for the protection of in-

vestors to suspend registration pending final determination upon revocation; and

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

It is ordered, That proceedings be held to determine whether the registration of Warren N. Withington, doing business as Withington & Company, should be revoked and to determine whether this registration, pending final determination, should be suspended pursuant to Section 15 (b) of the Securities Exchange Act of 1934.

It is further ordered, That a hearing for the purpose of taking evidence be held at 10:00 a. m. on the 19th day of March 1940, at the Securities and Exchange Commission, 614 Patterson Building, Denver, Colorado, and at such other times or places as the Commission or the officer conducting such hearing may determine; and that for the purpose of said hearing Howard N. Lary be, and he hereby is, designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

It is further ordered, That this order and notice be served on the said registrant personally or by registered mail, not less than seven (7) days prior to the time of the hearing, or in the event of failure to serve registrant personally or by registered mail that this order and notice be published in the FEDERAL REGISTER in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission and transmit same with a record of this hearing to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-877; Filed, March 2, 1940;
11:34 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of March, A. D. 1940.

[File No. 32-177]

IN THE MATTER OF PHILADELPHIA ELECTRIC COMPANY

ORDER CONSENTING TO WITHDRAWAL OF APPLICATIONS AND DECLARATION PURSUANT TO REQUEST OF COMPANY

Philadelphia Electric Company, a subsidiary of The United Gas Improvement Company, a registered holding company and a subsidiary of The United Corporation, also a registered holding company, having filed applications and a declaration pursuant to Sections 6 (b) and 7 of the Public Utility Holding Company Act of 1935 with respect to the sale of \$10,000,000 principal amount of serial 2¾% Promissory Notes and 50,000 shares of \$4.25 Dividend Preferred Stock;

The Commission, upon the request of Philadelphia Electric Company, consents to the withdrawal of such applications and declaration, and to that effect

It is so ordered.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-878; Filed, March 2, 1940;
11:34 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of March, A. D. 1940.

[File No. 1-1737]

IN THE MATTER OF THE REGISTRATION OF NEW PREMIER CONSOLIDATED MINES COMPANY COMMON STOCK, \$1 PAR VALUE, NON-ASSESSABLE

ORDER FOR HEARING AND DESIGNATING OFFICER TO TAKE TESTIMONY

I

It appearing to the Commission,

That New Premier Consolidated Mines Company, a corporation organized under the laws of the State of Utah, is the issuer of Common Stock, \$1 par value, non-assessable, and

That said New Premier Consolidated Mines Company registered such security on the Salt Lake Stock Exchange by filing on or about June 3, 1935, an application on Form 10 with the said Exchange and with the Commission, pursuant to Section 12 (b) and (c) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule X-12B-1, as amended, promulgated by the Commission thereunder, which application became effective July 16, 1935, and has remained in effect to and including the date hereof, and

That Rule X-13A-1, promulgated pursuant to Section 13 of said Securities

Exchange Act of 1934, as amended, did and does require that an annual report for each issuer of a security registered on a national securities exchange shall be filed on the appropriate form prescribed therefor; and

That Rule X-13A-2, promulgated pursuant to Section 13 of the Securities Exchange Act of 1934, as amended, did and does prescribe Form 10-K as the annual report form to be used for the annual reports of all corporations except those for which another form is specified, and that no other form was or is specified for use by the said New Premier Consolidated Mines Company, and

II

The Commission having reasonable cause to believe:

That said New Premier Consolidated Mines Company has failed to comply with said Section 13 and said Rules X-13A-1 and X-13A-2 in that it has failed to file its annual report on Form 10-K for the fiscal year ended December 31, 1938, and

III

It being the opinion of the Commission that,

The hearing herein ordered to be held is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Securities Exchange Act of 1934, as amended;

It is ordered, Pursuant to Section 19 (a) (2) of said Act, that a public hearing be held to determine whether New Premier Consolidated Mines Company has failed to comply with Section 13 of the Securities Exchange Act of 1934, as amended, and the rules, regulations and forms promulgated by the Commission thereunder, in the respects set forth above; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of the Common Stock, \$1 par value, non-assessable, of said New Premier Consolidated Mines Company on said Salt Lake Stock Exchange;

It is further ordered, Pursuant to the provisions of Section 21 (b) of the Securities Exchange Act of 1934, as amended, that for the purpose of such hearing, Howard N. Lary, an officer of the Commission, is hereby designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law;

It is further ordered, That the taking of testimony in this hearing begin on the 8th day of April, 1940, at 10:00 A. M. at the Regional Office of the Securities and Exchange Commission, 1706 Welton Street, Denver, Colorado, and continue thereafter at such time and place as the

officer hereinbefore designated may determine.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-879; Filed, March 2, 1940; 11:34 a. m.]

NOTICE OF HEARING UNDER SECTION 11 (B) (1) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 WITH RESPECT TO THE HOLDING-COMPANY SYSTEM OF THE MIDDLE WEST CORPORATION

Notice is hereby given that the Securities and Exchange Commission adopted an order on the 1st day of March, 1940 directing that a hearing pursuant to Section 11 (b) (1) of the Public Utility Holding Company Act of 1935 be held with respect of The Middle West Corporation and each of its subsidiary companies hereinafter called the respondents at the offices of the said Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C., at 10 A. M. on the twentieth day after the date herein fixed for the filing of answers (or such later date as the Commission may prior thereto fix by supplementary notice).

Said order recites that it appears to the Commission that the holding company system of the said The Middle West Corporation is not confined in its operations to those of a single integrated public-utility system within the meaning of the said Act, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system.

Said order provides that each respondent shall file its answer to the allegations of said order on or before the 9th day of April, 1940, and thereby shall admit, deny, or otherwise explain the position of such respondent with respect to the allegations set forth in Parts I to V of said notice and order for hearing, and also provides that such answer may include a statement of the claim of the respondents or any of them as to (a) the action, if any, which is necessary and should be required to be taken by any of the respondents (including the divestment of control, securities or other assets), to limit the operations of each of the respondents as may be a registered holding company to a single integrated public-utility system and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system; (b) the extent to which any of said respondents which is a registered holding company should be permitted to continue to control one or more additional integrated public-utility systems as may meet the requirements of Clauses (A), (B) and (C) of Section 11 (b) (1) of the Act; and (c) the extent to which any of said

respondents should be permitted to retain an interest in any business (other than the business of a public-utility company as such) as provided by Section 11 (b) (1) of the Act. The answer of any respondent which is a registered holding company may, if such respondent so desires, state that such respondent proposes and is prepared to take such action as will cause it to cease to be a holding company within the meaning of the Act, together with a description of such action and the time within which it proposes to take such action; and

Said order further provides that the purpose of such hearing is to determine (1) such issues, if any, as may arise from the allegations of Parts I to V, inclusive, of said order, and the answer or answers filed thereto by the respondents or any of them as hereinbefore provided, and by any other party or parties hereto as hereinafter provided; (2) what action, if any, is necessary and shall be required to be taken by the respondents in said proceeding, or any of them, to limit the operations of the holding company systems of each of the respondents as may be a registered holding company to a single integrated public-utility system, and to such other businesses as are reasonably incidental, or economically necessary or appropriate to the operations of such integrated public-utility system; (3) pursuant to such application as may be made in said proceedings the extent to which each of the respondents as may be a registered holding company shall be permitted to continue to control one or more additional integrated public-utility systems as provided by Section 11 (b) (1) of the Act; and (4) pursuant to such application as may be made in said proceedings, the extent to which any of the respondents will be permitted to retain any interest in any business (other than that of a public-utility company as such) as provided by Section 11 (b) (1) of the Act; and

Reference is made to said notice and order for hearing for a more complete statement of the various matters to be determined at said hearing, and a copy of said notice and order for hearing is on file and open to public inspection at the offices of said Securities and Exchange Commission in Washington, D. C., and in each of the Regional Offices of said Securities and Exchange Commission, and a copy of said notice and order for hearing may be had upon written request to the Secretary of said Commission, and said notice and order for hearing is hereby made a part of this notice as if more fully herein set forth at length.¹

Notice of the aforesaid hearing is particularly given to each of the aforesaid respondents, The Middle West Corporation, Central and South West Utilities Company, American Public Service Company, Kentucky Utilities Company, North West Utilities Company, Arkansas-Mis-

¹ Filed as a part of the original document.

souri Power Corporation, United Public Service Corporation, Leonard S. Florsheim, Trustee, Inland Power & Light Corporation, Walter S. Bachrach, Trustee, Commonwealth Light & Power Company, Hugh M. Morris, Surviving Trustee of the Estate of Midland United Company, Clarence A. Southerland and Jay Samuel Hartt, Trustees of the Estate of Midland Utilities Company, Middle West Utilities Company of Canada, Limited, Gary Electric and Gas Company, Albion Gas Light Company, Central Indiana Power Company, East Missouri Power Company, West Texas Utilities Company, Central Power and Light Company, Compania Electrica Matamoros, S. A., Compania Electrica Ojinaga, S. A., Public Service Company of Oklahoma, Southwestern Light & Power Company, Southwestern Gas and Electric Company, Central Illinois Public Service Company, Central Power Company, Copper District Power Company, The Kansas Electric Power Company, Dixie Power and Light Company, Old Dominion Power Company, South Fulton Light and Power Company, Michigan Gas and Electric Company, Great Lakes Power Company, Ltd., Missouri Gas & Electric Service Company, Missouri Public Service Corporation, Lake Superior District Power Company, Northwestern Public Service Company, Wisconsin Power and Light Company, Darlington Electric Company, Mount Horeb Electric Company, South Beloit Water, Gas and Electric Company, Oklahoma Power and Water Company, Pecos Valley Power & Light Company, Kentucky Power & Light Company, The Kansas Power Company, Michigan Public Service Company, Missouri Edison Company, Public Service Company of Indiana, Dresser Power Corporation, Indiana Hydro Electric Power Company, Traction Light & Power Company, Terre Haute & Western Railway Company, Terre Haute Electric Company, Inc., Union City Electric Company, West Indiana Utilities Company, Brazil Electric Company, Northern Indiana Public Service Company, Berrien Gas and Electric Company, Gary Heat, Light and Water Company, Hobart Light and Water Company, Northern Indiana Power Company, Indiana Service Corporation, Southern Nebraska Power Company, Roby & Northern Railroad Com-

pany, West Vernon Sewer Company, Peoples Ice Company, Pittsburgh County Railway Company, The Lawton Corporation, Weleetka Pipe Line Company, City Ice Company of Kansas City, Dodson Water Company, Consumers Ice Company, Old Dominion Ice Corporation, The International Transit Company, The Eastern Kansas Pipe Line Company, Southern United Ice Company, Jackson Ice Company, Western Ice Service Company, The Home Ice Company, Port Isabel Corporation, Terminal Realty Corporation, South Construction Company, Inc., Indiana Railroad, Indiana Motor Transit Company, Shirley Realty Company, Indiana Industrial Land Company, M. U. Securities Corporation, Interstate Public Service Realty Company, Traction Land Company, Killbuck Milling Company, Shore Line Shops, Incorporated, Utilities Building, Incorporated, Chicago South Shore and South Bend Railroad (Indiana), Chicago South Shore and South Bend Railroad (Michigan), Indiana and Kensington Railroad, Michigan City Terminal, Incorporated, Bureau of Safety, Illinois Stock Transfer Company, Insurance Trust Fund (John E. Barber, Frank E. Kruesi and Oliver E. McCormick, Trustees), Middle West Service Company, Midland Subsidiary Corporation, Midland Stock Transfer Company, Subsidiary Service Corporation, and to all other persons, including the security holders and consumers of the said respondents, all States, municipalities, and political subdivisions of States within which are located any of the utility assets owned or operated by any of said respondents or under the laws of which any of the respondents are incorporated, all State Commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over any of the respondents or over any of the businesses, affairs or operations of any of them.

Said order further provides that any person proposing to intervene in said proceedings shall file with the Secretary of the Securities and Exchange Commission on or before the 9th day of April, 1940, his request or application therefor as provided by Rule XVII of the Rules of Practice of the said Securities and

Exchange Commission, and may, together with such request or application, file a proposed answer in form and content as hereinbefore provided, and which answer shall be deemed effectively filed upon the entry of an order by the Commission granting such request or application.

By order of the Securities and Exchange Commission this 1st day of March, 1940.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-904; Filed, March 4, 1940; 11:52 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of February, A. D. 1940.

[File No. 67-6]

IN THE MATTER OF SOUTHEASTERN ELECTRIC AND GAS COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Southeastern Electric and Gas Company, a registered holding company, having filed a declaration, and amendments thereto, pursuant to Rule U-12B-1 promulgated under Section 12 (b) of the Public Utility Holding Company Act of 1935 regarding an open account advance of \$53,500 to Eastern Power Company, a registered holding company subsidiary of declarant;

A public hearing having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made its findings herein;

It is ordered, That such declaration be, and the same is hereby permitted to become effective, subject, however, to the condition that the transaction set forth in the declaration, as amended, be carried out in all respects in accordance with and for the purposes represented by said amended declaration.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-905; Filed, March 4, 1940; 11:53 a. m.]